

JUN 25 1975

Report to the Congress on Coastal Zone Management

July, 1973 through June, 1974

Public Law 92-583



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

May 1975

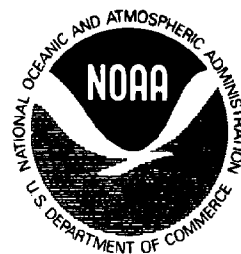
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**UNITED STATES
DEPARTMENT OF COMMERCE**
Rogers C.B. Morton, Secretary

**National Oceanic and
Atmospheric Administration**
Robert M. White, Administrator

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TO THE CONGRESS OF THE UNITED STATES:

I am transmitting herewith the second annual report prepared by the Secretary of Commerce dealing with the first year of actual operation under the Coastal Zone Management Act of 1972. The report covers Fiscal Year 1974 during which time the initial funding for the program became available.

With the critical need to increase our domestic supplies of energy and other resources from the areas off our coasts, a high priority is attached to the necessity of carrying out these activities in a safe and orderly manner. For many States and localities, the existence of the coastal zone management program provides a means for assessing and preparing for the effects of new or increased developmental activity in their coastal areas.

This program also seeks to establish a partnership between the States and the Federal government in managing our coastal resources in a way that balances development and environmental concerns.

GERALD R. FORD

THE WHITE HOUSE,
May, 1975



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

January 6, 1975

The President

Dear Mr. President:

I have the honor to submit herewith the Annual Report for Fiscal Year 1974 as required by Section 313 of the Coastal Zone Management Act of 1972 (P.L. 92-583).

Sincerely,

A handwritten signature in black ink, appearing to read "P. V. Daniel", is written over the typed name of the Secretary of Commerce.

Secretary of Commerce

Enclosure

REPORT TO THE PRESIDENT FROM THE SECRETARY OF COMMERCE, NOVEMBER 1974,
ON THE IMPLEMENTATION OF THE COASTAL ZONE MANAGEMENT ACT OF 1972

This report to the President on coastal zone management is submitted in accordance with Section 313 (a) and (b) of the Coastal Zone Management Act of 1972 (Public Law 92-583). The Secretary of Commerce is required to submit to the President for transmittal to the Congress a report on the administration of this Act for the preceding fiscal year. The report is to include a list of all approved State coastal zone management programs; a list of participating States and their accomplishments; an itemization of the funds allocated to the States; identification of any State programs which have been disapproved; identification of any Federal activities found to be inconsistent with approved State programs; a summary of regulations issued or in effect during the year; a summary of the national strategy for the coastal zone and discussion of the roles of the Federal, State, regional and local governments in the program; a summary of major problems encountered in administering the Act and a list of any proposed legislation felt necessary for improved operation of the Act.

The specific subsections of Section 313 of the Act outlining the required elements of the annual report are covered in the following manner:

Subsection 1 -- not applicable. Subsection 2 -- included in both Section III and the appendices. Subsection 3 -- appendices.

Subsection 4 -- not applicable. Subsection 5 -- not applicable.

Subsection 6 -- appendices. Subsection 7 -- Section II. Subsection 8 and part (b) -- Section V.

The Act was signed on October 27, 1972. During the first partial year of operation as a component of the National Oceanic and Atmospheric Administration, funding was not available. Initial organizational and management steps were taken in preparation for issuance of initial coastal zone management program development grants. Funding commenced in Fiscal Year 1974 and this report details the activities of the Office of Coastal Zone Management and the States as they began implementation of the legislation.

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I. HIGHLIGHTS OF ACTIVITY, FISCAL YEAR 1974

- Initial funding to 27 States and one Territory to enable them to begin development of coastal zone management programs was accomplished.
- Applications from three additional States/Territories were received for management program development, grants to be processed for initial funding in Fiscal Year 1975.
- First estuarine sanctuary grant was obligated.
- Guidelines for management program approval by the Secretary of Commerce were prepared and circulated and discussed at a series of regional meetings. Guidelines will be published in Fiscal Year 1975. Several State management programs may be submitted during Fiscal Year 1975 for approval and implementation.
- Marine sanctuary guidelines were issued, and several sites were proposed for approval, although program remained unfunded.
- National Coastal Zone Office was reorganized and renamed Office of Coastal Zone Management (OCZM). The beginning of a regional liaison desk apparatus was undertaken.
- The Second National Coastal Zone Conference was sponsored by the Department of Commerce. The Proceedings from the first such conference were published and distributed.
- The Secretary appointed the members of the Coastal Zone Management Advisory Committee which held its first two meetings.

II. SUMMARY OF YEAR'S ACTIVITIES

Section 303(b) of the Coastal Zone Management Act of 1972 provides that it is the national policy:

" . . . to encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to the ecological, cultural, historic, and esthetic values as well as to needs for economic development . . ."

Fiscal Year 1974 saw the beginning of the effort called for in the Coastal Zone Management Act of 1972 to "encourage and assist" the States. Thirty-one of the 34 eligible States and territories voluntarily submitted proposals for matching grant money to help them begin development of management programs for their future coastal development. Twenty-eight received grants by June 30, 1974.

The initial response of the States indicates a willingness to accept and put into effect their responsibilities cited in the passage from the Act quoted above. Early in the fiscal year, the OCZM anticipated perhaps only half as many applications for initial program development funds as actually were funded.

Also notable is the fact that the States' total participation in the first year's work exceeds the one-third amount required by the Act. Thirty-nine percent of the total Federal-State funding committed during Fiscal Year 1974 is State funds (See Appendix 1 for a State-by-State summary and total).

The beginning effort launched during the past fiscal year to better manage precious coastal resources comes at a time of intensified pressure on these resources, from varied sources. While most States have acted to address one or more problems evident in their coastal areas, only a few have anything like a comprehensive management program dealing with the future use of private and public lands. Previous State action has involved legislation

to protect wetlands, as along the East coast, or action to ensure public access to beaches, taken by several States. (See the Secretary of Commerce's Coastal Zone Management Annual Report for Fiscal Year 1973 for additional detail.)

As President Nixon noted when he signed the Act,

"More than 75 percent of our population now lives in States bordering the Atlantic and Pacific Oceans, the Gulf of Mexico and the Great Lakes. The number of people who use our coastal zone is rapidly increasing -- and so are the purposes for which these areas are utilized. Commercial fisheries, ports, beaches and other recreation areas, the extraction of minerals, the siting of power plants, the building of homes and factories, the development of transportation systems -- these are among the competing functions which our coastal zones are being called upon to serve. Yet these same areas, it must be remembered, are the irreplaceable breeding ground for most aquatic life."

Passage of the Coastal Zone Management Act climaxed many years of active concern about deteriorating conditions. The Clean Water Restoration Act of 1966, for instance, directed that a study be made of the Nation's estuarine areas and that a management program be devised. An Estuary Protection Act, passed in 1968, provided for an additional study of the country's valuable wetlands. The Stratton Commission on Marine Sciences, Engineering and Resources issued in 1969 a recommended enactment of a Federal program providing matching grants to the States to encourage better management of the coastal lands and waters.

Since enactment of the Coastal Zone Management Act of 1972, the competing pressures on the coastal zone have increased. The energy shortage of the fall of 1973 has added new dimensions of proposed uses of the coasts. Superports off the coasts, with coastal receiving installations for the off-loaded petroleum products, are being discussed for the Atlantic, Gulf of Mexico and Pacific Coasts. New or expanded petroleum refinery capacity is being advocated as a partial answer to the country's energy shortages, frequently with a coastal location in mind in order to be near supply sources.

Additionally, extensive analysis is under way of the petroleum resources located on the continental shelf of the Atlantic Coast and Gulf of Alaska, two presently unexploited areas. As experience in the Gulf of Mexico and North Sea areas makes clear, the staging for offshore petroleum exploration and production involves intensive uses of portions of the adjoining coast.

Still another proposed new use of the coastal waters with potential impact is the location of nuclear power plants offshore. The effect of such installations on coastal waters and fish life requires careful study.

In one section of the country -- the New Jersey-Delaware area -- all four of the above-mentioned energy-related proposals are being suggested. The possible cumulative effects of proposed offshore petroleum port facilities, new or additional petroleum refining capacity, potential outer continental shelf oil and gas exploration activity (which would be followed by production if oil and gas sources are located) and floating offshore nuclear power plants -- all proposed for New Jersey-Delaware -- underscore the need for rational planning of use of the coastal lands and waters in that area to ensure that maximum benefits to the public are obtained with minimum disruption to the environment.

Elsewhere in the country, coastal pressures increase. Controversies in recent months have involved a nuclear power plant site in California, an oil refinery in Maine, a chemical plant in Delaware, a major resort development in Texas and an industrial dumping case in the Great Lakes.

Rapid growth has been experienced in construction of second homes in coastal areas, as well as of condominiums and retirement colonies.

Since March 13, 1974, when the first three coastal zone management program development grants were issued, 28 States and territories have begun the effort required to provide a comprehensive management program of their coastal resources. It is possible that several of the States which were already advanced in this effort may be able to submit management programs for approval this year. If the Secretary of Commerce approves the State programs by the end of FY 74, funds exist to supply two-thirds matching administrative grants in Fiscal Year 1975 to bring one or more management programs into operation.

The coastal zone program received its first funds, \$12 million, late in the calendar year 1973. Of the amount, \$4 million was assigned to the estuarine sanctuary program to be available until expended, \$7.2 million for management program development grants for use in Fiscal Year 1974 and \$800,000 for administration during the year.

The Act allows States up to three years to prepare their comprehensive management plans. It is likely that a number of States will require the full period in order to be ready to submit a management program for approval.

In past years, there have been numerous reports, studies and conferences directed to the need to better guide growth in coastal areas. These activities set the stage for the successful beginning made this past Fiscal Year in implementing the Act. Basic public awareness of the uniqueness of the coastal areas, developed in recent years, helps explain why a program which is pioneering in several aspects has met ready acceptance in its initial stages.

The Coastal Zone Management Act is a pilot program in a new type of inter-governmental relations in this country. It suggests a different balance be struck in the relationships between Federal and State (as well as regional) governments, in which the Federal government does not play the major role though it is the principal source of public funds. The Act provides wide latitude to the States in how they go about managing their coastal resources; the States in many cases will have to reorder their relations with units of local government, in recognition that some local decisions have regional, State or even national implications.

It is anticipated that there will be a wide variety of approaches taken by the States and territories. There are differences of approach even in the initial program development grant applications as is seen in Appendix 2 of this report. The Coastal Zone Management Act is intended to provide the necessary flexibility to the differing States and to date has permitted States to take individualistic approaches.

The role of the Federal Government is to facilitate and support State action. In keeping with this, the national coastal zone office will be kept relatively small in number (less than 35 persons total), but sufficient to provide the States with the kinds of basic support needed to proceed effectively with program development initially and implementation eventually.

The preparation of guidelines for the States to use in submitting applications for program development grants was carried out in a spirit consistent with the statement that the chief Federal role is to facilitate the States to exercise their responsibilities in the coastal areas. Prior to initial publication of the guidelines on November 29, 1973, there was extensive consultation with State officials who would be preparing the grant applications to ensure clarity and usefulness of the guidelines.

The guidelines spell out for State applicants what is required to meet the intent of Section 305 of the Coastal Zone Management Act in six specific areas. The State management program now under development must:

- define the coastal boundary of the State (the guidelines suggest States take a two-step approach, initially including a larger area in their considerations than ultimately will be submitted).

- define permissible land and water uses which have significant impact on the coastal waters (the guidelines indicate the three basic types of analyses necessary for this classification process).
- designate areas of particular concern (the guidelines list nine factors which might be the basis for such designations).
- define the means by which the State will exercise control over land and water uses (which, it is pointed out, can range from direct State intervention to overview of local actions for conformity with State criteria; the guidelines alert States to the need to determine early in their program development whether or not new State legislation will be necessary).
- designate priority uses within certain coastal zone regions (this requirement, it is pointed out, builds on the development of declared permissible uses and designation of areas of special concern and would use information such as flooding history on which to base priorities of use).
- choose an organization to administer the management program (the requirements for the designated State agency to coordinate with local units of government, other State agencies and Federal entities are spelled out).

In a similar manner, the past year saw the preparation of the criteria on which approval of a State program would be based. The suggested criteria were discussed in seven regional meetings in order to allow maximum input from the affected State and local government personnel. The comments were

useful in preparing the draft guidelines for program approval which were subsequently published in the Federal Register for comment in the current fiscal year.

The national Office of Coastal Zone Management began organization during Fiscal Year 1974 of a regional desk structure. Four persons eventually are to be assigned regions of the country (Northeast, Southeast, Great Lakes, and West) in order to develop close contact between the national office and the program developers and managers in the States. The first such regional coordinator was employed during the year and two additional coordinators selected.

The national office this past year began development of a program of technical assistance to the States. The first effort was in the area of coastal mapping. Resources of the Federal government were analyzed, a meeting of involved agencies was held to determine areas of responsibility and gaps in current efforts involving coastal area mapping, State contacts were informed of existing resources available to them and a proposed program of stepped-up mapping was prepared.

Also, the States have been advised of the national office's acquisition of an extensive collection of books and periodicals on the coastal zone topic which provides State program developers with an information resource that can be called on at any time. In addition to the effort within OCZM, NOAA's Environmental Data Service is working with the States to provide summaries of existing environmental data and bibliographic information as well as systems to handle such data. Other activities of OCZM during Fiscal Year 1972 include the following:

- The selection of the membership and the first two meetings of the Coastal Zone Management Advisory Committee. The purpose of the Advisory Committee is to provide guidance on policy questions such as implementation and administration of the Act, proposed revisions or legislation involving the coastal zone, public awareness and understanding of management issues and other Federal activities as they relate to the coastal zone. All but one of the 15-person Committee attended the organizational meeting held in Washington on November 15, 1973. At the Committee's second session, February 21 and 22, at Santa Barbara, California, the Committee addressed the method by which Federal agency actions will be brought into conformity with approved State programs.
- Initial contacts were made in Fiscal Year 1974 by the OCZM with major Federal agencies which will be affected by State management programs when approved. The Act requires the Secretary, before approving a State program, to ensure that the views of all affected Federal agencies are considered. After this consultation and State management program approval, the Act then places a responsibility on Federal agencies to conduct their activities in accord with the State program to the maximum extent practicable. Furthermore, any activity affecting land or water uses in the coastal zone requiring a license from a Federal agency shall be accompanied by a certification that the proposed activity conforms with the State's coastal zone management

program. OCZM made initial contacts with six of the major Federal agencies affected by these provisions; the interagency cooperation activity is to be accelerated in the current fiscal year in view of the possibility that one or more State plans may be approved by June 30, 1975.

- There was continued effort during the past year to bring to the States' attention the capabilities that exist within NOAA. This year there will be a series of reports advising the States of the specific kinds of technical assistance they can expect to receive from NOAA components. The first steps were taken to prepare a working agreement between OCZM and the Sea Grant Program of NOAA. A OCZM/Sea Grant position paper outlining the respective functions of each office is nearly complete and similar working agreements will be made with each major component of NOAA during the current fiscal year. Among the specific attributes of the agency which can usefully be brought to bear in the States is the Sea Grant Advisory Service which brings together the field extension capabilities of the entire organization.
- Five briefings about the coastal zone management program were conducted during the year. Two were held for representatives of State, local and regional governments. Three were held for members of Congress and their staffs from States and districts along the coasts and Great Lakes. This program will continue in Fiscal Year 1975 with briefings for industry interests and conservation groups.

- The OCZM began discussions with State representatives and outside groups about the need for public understanding of the coastal zone management effort and ways and means of accomplishing same. An initial effort in this area is the preparation of a film for general distribution. The presentation takes samples of four coastal regions of the country and illustrates how several types of problems taking place in these areas impact on local citizens. Work began on a brochure explaining the background and development of the coastal zone management program.
- The Department of Commerce sponsored a successful second national Conference on Coastal Zone Management, held March 13 and 14, in Charleston, S.C. Attendance was 450, in excess of expectations, and included 140 legislators and officials from 30 coastal and Great Lakes States and territories, representatives from industry and environmental groups, plus persons from Federal agencies and the academic community. Speakers included Senator Ernest F. Hollings, Chairman of the National Ocean Policy Study in the U.S. Senate; Senator Ted Stevens, ranking Minority Member of the Senate Subcommittee on Oceans and Atmosphere; Dr. Robert M. White, Administrator of NOAA; Nathaniel Reed, Assistant Secretary of the Department of the Interior for Fish, Wildlife and Parks; Richard Fairbanks, Assistant Director of the Domestic Council in the Executive Office of the President; Dr. Beatrice Willard, Member of the Council on Environmental Quality; Honorable Chris Spirou, Assistant Minority Leader, New Hampshire House of Representatives; Honorable Raymond Smit, Michigan House of Representatives; Honorable "Babe" Schwartz, Texas State Senate; and Robert W. Knecht, Director, OCZM.

The theme of the Conference was the question of how to define the "national interest" and to ensure that it is met in a program administered primarily at the State and local levels of government.

- The OCZM assisted in the annual meeting of the Estuarine Research Foundation, held in October 1973 at Myrtle Beach, South Carolina.
- A contract study was conducted by the Virginia Institute of Marine Science on the background, purpose and direction of the estuarine and marine sanctuary programs which the OCZM is charged with administering. The estuarine program is a part of the Coastal Zone Management Act; the marine sanctuary program, dealing essentially with ocean waters plus the Great Lakes, was authorized by the Marine Protection, Research and Sanctuaries Act (Public Law 92-532, commonly known as the Ocean Dumping Act). A national workshop on the sanctuary program was held in Washington, D. C. on November 28 through 30, and proceedings of that meeting issued.
- Work continued during the year on a contract made with the Massachusetts Institute of Technology's Center for Policy Alternatives on the question of how to implement the requirement of the Act that States give "adequate consideration" to the national interest in facilities siting involving considerations of more than a local interest. The analysis will be completed this fall.
- The OCZM helped in the publication of the volume Coastal Ecosystems, providing general ecological principles as a guide to persons preparing State management programs. The publication was issued by the Conservation Foundation with assistance from OCZM and the American Conservation Association.

- The OCZM assisted with the publication of the four-volume document Coastal Ecosystems of the United States. This work, originally prepared for the National Estuarine Pollution Survey, was edited by researchers at the University of Florida, North Carolina State University and the University of North Carolina, and was published by the Conservation Foundation. The work includes a new system of classification of coastal ecosystems and serves as a basic reference work for coastal zone managers.
- On June 27, 1974, the first 50-50 matching grant for acquisition of an estuarine sanctuary was made. A total of \$823,965 in Federal funds was granted to the State of Oregon to set aside 4,200 acres of the South Slough of Coos Bay to serve as a natural field laboratory in keeping with Section 312 of the Act. The funds are to be used to acquire, develop and operate the sanctuary, the use of which will thereafter be primarily for scientific and educational purposes. A principal aim will be development of information useful for coastal zone management decision-making. Among the purposes which might be accomplished in the estuarine sanctuary are the development of a thorough understanding of ecological relationships in the type of sanctuary selected, making baseline measurements against which activity in other similar estuaries can be measured, or serving as a tool for advancing public understanding about the biological productivity of sanctuaries and their importance to the public. Several additional sites were examined during the year for possible action during Fiscal Year 1975.

- Several site nominations for designation as a marine sanctuary were examined by OCZM during the past year, although the program has not received initial funding. Final guidelines for the program were published on June 27, 1974. Among the sites being examined are the location of the hull of the USS MONITOR off the coast of North Carolina, an area including the John Pennekamp Coral Reef State Park in Florida, and Puget Sound, the latter proposed to serve as a sanctuary for the killer whale. It is anticipated that the first designation of a marine sanctuary will take place before June 30, 1975.
- As part of the effort of OCZM to supply State officials with information about specific technical services available from the Federal government outside of NOAA and as part of the effort to determine State needs, a workshop was conducted on the specific topic of coastal mapping. A report, issued in May 1974, detailed presently available mapping programs, expressed State needs and developed a recommendation for a six-year, \$40 million Coastal Zone Base Map series by the National Ocean Survey of NOAA and the U.S. Geological Survey of the Department of the Interior, plus an additional small scale metric mapping effort felt to be necessary. The States have voiced a strong need for a coastal mapping handbook describing mapping scales, techniques, expertise required and types of maps available. Additional areas of importance to State coastal zone program developers, such as energy requirements and erosion considerations, will be examined during the current year for the purpose of preparing specific information of use to State officials.

III. SUMMARY OF STATE ACTIVITIES

There is great divergence among the 28 States and Territories taking part in the Coastal Zone Management Program in Fiscal Year 1974. Beyond obvious differences in size, region and extent of present development along the coasts, there are major differences in political systems within the States and differences in levels of public support for coastal management activity.

Despite the wide variances among the States, many common problems emerge. The Coastal Zone Management Act has served in its first year to cause States to begin to take thorough looks at just what the nature of the coastal area problem is. Many states had on their own begun to address one or more of their problem areas; the coastal zone management program marks for nearly all States the beginning of a comprehensive approach to these problems.

The most often mentioned problem the States see is the absence of a coordinated government approach to coastal activities between Federal, State and local groups and regional bodies as well. Many States, in their applications for matching funds to begin program development, speak of overlapping jurisdictions, absence of clear governmental authority, single purpose agencies or governmental units operating independently and the lack of an overall plan or policy for the coasts. These deficiencies are precisely ones which the Coastal Zone Management Act is designed to overcome.

Other problems which States cite with varying degrees of emphasis include the following:

- Multiple demands from competing sources for limited areas of land and water. This is mentioned by a number of States as the underlying

dilemma facing them. Other States in their applications for initial program development funding did not make specific mention of competing uses, but the conflict was implied.

- Access to coastal areas for leisure activity by the general public. Restricted access to beaches specifically, and absence of access to open coastal areas in general, is a major concern for many States. Especially true for heavily populated metropolitan areas, the problem also exists for less populated areas where most coastal lands are in private hands.
- Water quality problems exist in many State coastal regions. A number of the States place restoration of water quality (and air quality) in their coastal regions as a primary program objective. (A summary of State program designs is presented in the appendix.)
- Absence of needed data is a problem for many of the State coastal zone management program developers. In some cases, the problem seems to be one of fragmentation, where the data is available but spread about, while in other States the program developers feel the data is not available.
- Erosion is listed by all of the Great Lakes States and a number of others as a major problem to be addressed. Coastal zone management programs will have to be designed to guide future growth away from erosion-prone areas as well as attempt to deal with presently threatened sites.

- The need to accommodate industrial and commercial expansion, without environmental damage, is a recurring theme. While coastal areas as a whole have experienced rapid population expansion in recent years (which is itself a cause of many of the problems facing a number of States), not all regions have had this experience. Many coastal counties have lost population and the need is expressed to revive employment opportunities in these areas to make them viable. At the same time, there is recognition of the need to preserve the coastal region ecology to the extent feasible.
- Wetland destruction has occurred in many coastal areas. Where this is felt to be a problem, coastal zone management programs will have to guide future activities away from valuable wetlands and still provide for needed facilities, such as pipelines which in the past may have been routed through low-lying areas.
- Energy-related facility siting poses major problems for a number of States. Pending offshore oil and gas development, possible location of superports with attendant landside facilities, power plant sites near water for cooling, and expanded petroleum refinery capacity are among the demands being made on some coastal areas. Pressure for accommodating these types of facilities has increased during Fiscal Year 1974 as partial answers to the country's energy needs. At the same time, population pressures place greater demands on the same coastal areas for recreation uses which in some instances are not compatible with energy-related uses.

- Increased home construction, either the year-round or second home variety, is taking place in many coastal areas and not always with sufficient attention to the carrying capacity of the land or adjoining waters. The States with this type of problem see the need to control this type of development in the future to help head off public expense required to compensate for inadequate site planning.
- Fishing problems, both for commercial and sport usage, are cited by several States. Particularly important are the commercial fleets which have had to curtail activities or the absence of opportunity for sport fishing in areas previously sought out by anglers. Pollution and over-fishing, plus natural phenomenon, are among the factors at work.

All of the States participating in the coastal zone management program have begun to address the problems seen by those charged with preparing comprehensive coastal management efforts. For all but a few of the States which had begun similar activity on their own in the past, Fiscal Year 1974 marks the first occasion that detailed and thorough looks have been taken at the range of problems existing in coastal areas. This activity is a first step toward devising management programs designed to solve or alleviate coastal problems.

IV. THE ESTUARINE AND MARINE SANCTUARY PROGRAMS

Estuarine Program

Fiscal year 1974 saw the establishment, subject to State legislature approval, of the first estuarine sanctuary in the country under the provisions of the Coastal Zone Management Act of 1972. The action was preceded by years of studies and recommendations suggesting that certain valuable estuary areas be set aside, before they were permanently altered for use by future generations, to serve as benchmarks.

On June 27, 1974, a 50 percent matching grant was given the State of Oregon to help enable it to acquire and operate an approximately 4,200-acre sanctuary on the South Slough of Coos Bay, located south of the community of Charleston on the lower third of Oregon's Pacific Ocean coastline.

Earlier in the fiscal year, guidelines for use by States in making applications were published. The issuance of the grant was accompanied by an environmental impact statement.

In the Oregon sanctuary, about 700 acres are already in State possession. The plan is to acquire the remainder by negotiation, either outright or by the State acquiring a partial interest which will enable it to control future use.

The purpose of the South Slough sanctuary is to ensure its permanent existence as a representative estuarine sample for use as a natural field laboratory. Direct ecological observations of the sanctuary will permit assessments of the impact of man's activities on similar areas. The direct application of this type of information to coastal zone management decision-making is a prime objective.

In the management area, the State of Oregon is charged with the responsibility to maintain the area in its present, largely undisturbed state, and to protect it from activities which would alter its utility for scientific and educational purposes. The Oregon State Land Board will have authority over the sanctuary, guided by a Technical Management Task Force. There is to be a full-time program manager for the sanctuary who will oversee its operation and will coordinate all activities in the area.

Some recreation activity would be permitted, as long as the level and kind of activity does not alter the natural environment. Recreational fishing, shellfish harvesting and hunting, for instance, would be permitted to continue at something like present levels.

Persons now living within the sanctuary boundaries (nine in number) can continue to live and farm there and may choose to retain an interest in their property. Expansion of facilities or introduction of any commercial activity would be prohibited. The only type of timber activity to be allowed would be for the health of the ecosystem, as in cutting of diseased trees or selected thinning.

The sanctuary manager will maintain a continual monitoring activity within the sanctuary to see if violations are taking place or if any changes need to be made in the management system

Another aspect to be closely watched is the use made of the land in the watershed surrounding the sanctuary but outside its boundary. Such activities as logging or pollution, stemming from waterfront activities in the area, could threaten the natural state of the South Slough sanctuary. Strict controls over such activities will be enforced through existing State laws.

Research activity in the sanctuary will be approved by the manager and the Technical Management Task Force. It is expected that the University of Oregon Institute for Marine Biology at Charleston will be a major user. Other users will include State agencies and Southwest Oregon Community College.

There is a history of citizen interest in and support for protection of the Coos Bay area, and particularly the undeveloped South Slough site. In recent years, parts of the sanctuary were proposed to be subdivided and made available for intensive recreational use. In 1969, the Oregon State University Marine Advisory Program published "Crisis in Oregon Estuaries," summarizing the resource demands on the estuaries and recommending land and water use program be devised for the Coos Bay area.

In 1970, the Governor ordered a halt to all State activities which might modify the natural coastal environment, including the estuaries.

A citizens' group in 1971 put together a land use plan for the whole of the South Slough, calling for protection of the southern half of the South Slough, and submitted it to the Coos County Planning Board and ultimately the county commissioners where it was approved. The county in 1972 appointed a Coos Bay Estuary Committee which a year later reaffirmed the recommendation for protecting the southern portion of South Slough and recommended that means be found to compensate the affected property owners.

It was out of this citizen activity and local government responsiveness that the South Slough came to the attention of the Office of Coastal Zone Management and led ultimately to the first estuarine sanctuary grant, in the amount of \$823,965.

In preparation for a decision on whether or not to proceed with the proposal for the South Slough sanctuary, the OCZM authorized a careful study of the economic impact of a sanctuary designation. To offset the scientific and educational benefits which would stem from such a designation, analysis was made of the economic loss that the protection of the area would cause. The absence of timber harvest was found to be the most significant negative impact; a lesser loss would be suffered economically if instead the area was developed for residences. Neither, however, was found to be of a value anywhere near the economic benefits which would accrue to the area from the designation.

For instance, the maximum benefit from timber harvesting was set at \$1,344,000. Management expenditures for the sanctuary and research grants together would add about \$3.5 million to the economy, it was found.

The ultimate justification for the program in general, and the South Slough sanctuary in particular, lies beyond its immediate boundaries. In the long term, the research activity made possible by preserving a representative sanctuary in its natural state will permit sounder coastal zone management decision-making which will be of benefit over a wide area.

In terms of future activities in the estuarine sanctuary program, it is hoped to be possible to name an additional sanctuary, representative of another of the basic types of estuaries found in this country, during the current fiscal year. By June 30, 1974, two draft applications for designations had been received. Strong expressions of interest and tentative site designations were made by four additional States and 14 other States had exhibited interest to one degree or another.

Marine Program

The marine sanctuary program, Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532) provides for the designation of certain ocean waters, or coastal waters and Great Lakes areas, for preservation or restoration for conservation, recreation, ecological or esthetic reasons. (The material dealing with the marine sanctuary program is drawn from the annual report to Congress submitted separately, as required by P.L. 92-532.) This summary is included because the activity by the Office of Coastal Zone Management is being carefully coordinated with the estuarine and coastal zone management programs.

Considerations which might come into play in accepting a nomination of a marine sanctuary include areas necessary to protect valuable marine life, or geological and oceanographic features. Also, a marine sanctuary may be named to complement and protect parks and national seashores. Fisheries research and other resource analysis and the general advancement of understanding about the marine ecosystem are additional factors which may be used to name marine sanctuaries.

On June 27, 1974, the final guidelines for the program were issued. At the same time, the program remains without an appropriation for its administration.

There are a number of nominations pending which were received during the past fiscal year and it is likely that one or more will complete the review process and interagency consultation before the end of Fiscal Year 1975 and become designated marine sanctuaries.

Among the nominations being reviewed are the following:

-- The Florida Keys, a nomination of a coral reef habitat which would encompass the existing John Pennekamp Coral Reef State Park, plus adjacent Federal areas and another State area, which would be tied into a single entity under the proposal.

-- Another nomination from Florida is to designate the headwaters of the Crystal River on the northern Gulf of Mexico coast of the State to preserve the endangered Florida manatee (sea cow). The principal threat to the animals is from high-speed boats.

-- The Puget Sound area has been suggested as a sanctuary to protect the killer whale species.

-- The USS MONITOR site off the coast of North Carolina is under active consideration as a marine sanctuary. Concern has been expressed that the remains of the historic vessel may be plundered by souvenir hunters or others unless some measure of control is exercised. The marine sanctuary title, by placing ultimate permit authority over activities in such areas in the hands of the Secretary of Commerce (with the advice of the Administrator of NOAA), appears to be the only means of protecting such a relic.

-- Assateague Island National Seashore area is being studied by the Virginia Institute of Marine Science for the possible suitability of nominating the waters on the ocean and shore-side of the barrier island as a marine sanctuary. This is a follow-on of the contract executed by VIMS during Fiscal Year 1974 to study the background and purposes of both the estuarine and marine sanctuary programs and to provide guidance on their implementation to NOAA. It is expected that a nomination for the Assateague area will be forthcoming during the present fiscal year.

-- Bristol Bay, Alaska, has been suggested as a habitat preserve because of the importance of protecting a number of species of fish. Study is being conducted by the State on how a marine sanctuary in this area would integrate with its coastal zone management planning effort.

V. PROBLEMS AND PROPOSED LEGISLATIVE SOLUTIONS

In accordance with the requirement of the Coastal Zone Management Act that this annual report include a discussion of the problems which have been encountered in administering the program and such legislation as the Secretary has found necessary to propose to enhance operation of the Act, the following six topics are submitted.

-- Landside Impact of Offshore Activity

Significant increases in offshore activity are anticipated in almost all areas of the country. Offshore petroleum resources are being investigated off the New England, mid-Atlantic, Southeast, Gulf of Mexico, California and Alaskan coasts, for instance.

Deepwater ports have been proposed for the East, Gulf of Mexico and West coasts. Expanded petroleum shipping facilities and refineries in coastal locations are seen necessary to meet the nation's energy requirements.

The problem is how to facilitate the provision of needed energy-related actions in coastal areas in the national interest and at the same time to alleviate the impact of such actions in the States and also to see that the facilities are integrated into State coastal zone management programs.

In legislation which has been discussed dealing with energy facility siting in the coastal zone, two basic approaches have emerged. One would tend to emphasize the Federal responsibility in this area and the other would amend the Coastal Zone Management Act to allow latitude to the affected States.

It is clear that for many of the coastal States, the major problem in coming years will be how to cope with and provide the necessary landside support for increased activities offshore. The increased offshore activities will require States to plan effectively to minimize adverse impacts of such usage and to blend the additional activities with other necessary coastal uses.

One of the positive aspects of the Coastal Zone Management Act is that State management programs, when implemented, will permit early identification of sites for energy facilities. This will permit private investments to proceed with more assurance than is now the case. The designation of energy facility sites is to reflect the national interest in such areas and promises an earlier resolution of siting conflicts than now is the case.

The Office of Coastal Zone Management is working with other interested Federal agencies, and with State representatives, to perfect a means of dealing with the problem of the landside impact of offshore facilities.

- Estuarine Sanctuary Extension

The section of the Act authorizing the establishment of estuarine sanctuaries provided for the appropriation of \$6 million in Fiscal Year 1974 only. Four million dollars was actually appropriated and has been judged by the Coastal Zone Management Advisory Committee and the National Advisory Committee on Oceans and Atmosphere to be inadequate. The estuarine sanctuary program has evoked considerable positive response from at least 20 coastal States.

Legislation to authorize funding for three additional fiscal years has been introduced. The Office of Coastal Zone Management and the Department are now studying alternative overall national plans for the Nation's estuarine sanctuary needs to provide the basis for decisions on the scope of the Federal program. When those studies are completed and evaluated, we will then be in a position to propose specific legislative changes, if any.

Meanwhile, it would be premature to extend the current authorization level for three years.

- Percentage Limitations

The presence in the Act of a limitation of 10% on the amount any State may receive for the administration of its approved coastal zone management program under Section 306 of the Coastal Zone Management Act poses a problem during the current fiscal year.

This limitation, built into the present Coastal Zone Management Act of 1972, prevents adequate funding under Section 306 which will occur in the first and last years of that program when less than ten States will apply for management program administrative grants. Thus, in fiscal year 1975, it is conceivable that three or four times as much money as would be required would have to be appropriated in order that the size of individual grants to the several States be large enough to cover administration of the management programs envisaged under Section 306. Moreover, the 10% limitation prevents expenditure of the entire appropriation for that fiscal year when less than ten States apply. Legislation to remove the 10% limitation has been introduced.

Likewise, the provision in the Act that no State or territory shall receive less than 1% of the funds available for program development will be a problem to one or more of the smaller eligible States or territories. Recipients are statutorily required to accept more money than they may need, and at the same time, required to raise a higher matching sum which may be burdensome. Consideration is being given to recommending removal of this provision.

- Short-term Research Needs

A problem that States are finding as they go about development of comprehensive coastal management programs is that short-term research requirements are difficult to fill. Research activity in coastal processes appears to be centered on long-term factors, as in, for example, examination of the impact of oil ingested by marine organisms. Research in this area would need to examine possible effects in reproduction and would necessarily extend over a long period. Persons charged with developing State coastal zone programs, however, have need for quick turnaround in gathering certain types of data. Consideration should be given to utilizing resources from foundations and other sources for expanded coastal zone research activity in general and for more applied research in particular. The Secretary of Commerce has asked that the National Advisory Committee on Oceans and Atmosphere study this area and make recommendations, particularly to provide justification for any modifications of the Coastal Zone Management Act that might be recommended. NACOA's third report to Congress did call for action in this area, but additional study and more specific definition of how individual programs such as the Sea Grant Program will interact have been requested before a final decision is made.

COASTAL ZONE MANAGEMENT - SECTION 305

GRANT AWARDS FOR FY 1974

<u>No.</u>	<u>State</u>	<u>Federal Share</u>	<u>Matching Share</u>	<u>Total Program</u>	<u>Grant Beginning Date</u>
1	Rhode Island	\$154,415	\$ 77,208	\$231,623	3/1
2	Maine	\$230,000	\$115,000	\$345,000	3/1
3	Oregon	\$250,132	\$169,567	\$419,699	3/1
4	California	\$720,000	\$928,653	\$1,648,653	4/1
5	Mississippi	\$101,564	\$ 50,782	\$152,346	5/1
6	South Carolina	\$198,485	\$100,015	\$298,500	5/1
7	Washington	\$388,820	\$194,410	\$583,230	5/1
8	Massachusetts	\$210,000	\$105,000	\$315,000	5/1
9	Ohio	\$200,000	\$166,300	\$366,300	5/15
10	Alaska	\$600,000	\$360,000	\$960,000	5/15
11	Texas	\$360,000	\$191,648	\$551,648	6/1
12	Wisconsin	\$208,000	\$146,000	\$354,000	6/1
13	Pennsylvania	\$150,000	\$ 75,000	\$225,000	6/1
14	Minnesota	\$ 99,500	\$ 49,750	\$149,250	6/1
15	Michigan	\$330,486	\$203,961	\$534,447	6/30
16	Maryland	\$280,000	\$185,765	\$465,765	6/30
17	Connecticut	\$194,285	\$130,359	\$324,644	6/30
18	New Hampshire	\$ 78,000	\$ 39,000	\$117,000	6/30
19	Hawaii	\$250,000	\$125,000	\$375,000	6/30
20	Georgia	\$188,000	\$115,400	\$303,400	6/30
21	Delaware	\$166,666	\$ 83,334	\$250,000	6/30
22	Florida	\$450,000	\$236,000	\$686,000	6/30
23	Alabama	\$100,000	\$ 50,000	\$150,000	6/30

GRANT AWARDS FOR FY 1974 (continued)

<u>No.</u>	<u>State</u>	<u>Federal Share</u>	<u>Matching Share</u>	<u>Total Program</u>	<u>Grant Beginning Date</u>
24	North Carolina	\$300,000	\$200,000	\$500,000	6/30
25	Illinois	\$206,000	\$103,000	\$309,000	6/30
26	Louisiana	\$260,000	\$134,090	\$394,090	6/30
27	Puerto Rico	\$250,000	\$125,000	\$375,000	6/30
28	New Jersey	<u>\$275,000</u>	<u>\$137,500</u>	<u>\$412,500</u>	6/30
	TOTAL	\$7,199,353	\$4,597,742	\$11,797,095	

SECTION 312

GRANT AWARDS FOR FY 1974

1	Oregon	\$823,964	\$823,964	\$1,647,930	6/30
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APPENDIX 2

The following are State-by-State summaries of the program development activities under way as a result of the initial funding under Section 305 of the Act. The summaries are drawn from the States' submittals to OCZM and describe how they each plan to proceed in developing a coastal management program.

ALABAMA

Program

The State intends to concentrate on ten key areas of use in the initial program development stage. The effort will be to acquire all existing data on: industrial development, commercial development, residential development, recreation resources, mineral extraction, transportation and navigation, waste disposal, fisheries and agriculture.

The aim of the data-gathering effort will be to develop broad policy goals within each of the ten activity areas. These can serve as the basis for the State's decisions on such requirements as the designation of permissible uses and priority uses within specific areas.

The goal of the program development effort is to allocate available coastal resources for the economic and social benefit of the State, preserving options and values for future generations. Another objective the State sees is the need to minimize irretrievable commitments of natural resources in the coastal area to the extent feasible.

CALIFORNIA

Program

The State commission has identified nine components which it, together with the six established regional commissions, will investigate. When taken together, the commission feels the resulting analysis will produce a comprehensive plan for California. The nine areas are to be studied as follows: the marine environment, emphasizing the physical aspect of the coastal zone, such as waves, tides and geological formations; land environment, looking at the relationships between the ocean and the shore and alternate ways of protecting the shoreland; geology, examining geological hazards

and including an analysis of potential environmental dangers from mineral extraction; energy, evaluating the State's responsibility for its energy requirements and for national needs, involving an examination of energy facility siting and its possible impacts; recreation, assessing projected needs for space and facilities in the coast, including a look at the potential for improved public access to the coast and recommending what areas might be set aside for recreational activity; appearance and design, surveying scenic resources and recommending ways of enhancing public enjoyment of this aspect of the coast; transportation, examining the need for port facilities and water-related industrial sites and evaluating alternate land and air transportation systems; development intensity, assessing the appropriate level of development of specific coastal areas, using techniques for determining the carrying capacity of specific areas, and the question of government funding and powers studying sources of tax revenue to finance permanent management of the coastal zone upon approval of a plan and looking at the capabilities of various units and levels of government to determine the most appropriate assignment of the coastal zone function. California has as its objective the protection of coastal resources and the natural environment. It seeks to preserve the ecological balance in the region and to ensure orderly and balanced use of coastal resources consistent with long-range conservation goals.

CONNECTICUT

Program

Connecticut plans to begin development of its comprehensive coastal zone plan by addressing some of the key elements required by the Act and by setting up a pilot study of one major coastal area to examine issues and resource

problems in detail. The boundary definition question will receive a high priority. Data from existing State planning documents will be used to develop a strategy for determining what land and water uses should be permitted in what areas. Areas of particular concern will be studied, looking into such factors as past flooding records, areas with high ecological value and areas with high potential for industrial use, for instance. The pilot study will be undertaken by the Southeastern Connecticut Regional Planning Agency and will deal with the shoreline and Thames River areas of the Southeast portion of the State. Resource pressures and conflicts, jurisdictional questions, local needs and desires, and areas of particular concern in the region will be identified.

As its objective, Connecticut cites the need to manage varied uses of the coastal zone to provide maximum public benefit with minimum adverse effects on the coastal resource. Another aim of the coastal program will be to protect fragile coastal areas and to improve the air and water quality of the region. The need to provide environmentally acceptable energy facility sites and to permit sufficient recreation opportunities are additional goals.

DELAWARE

Program

The State plans to develop a comprehensive coastal zone reference and management information system locating all available data and determining information gaps. An examination will be made of the adequacy of existing State, regional and local authorities to manage the coasts and to locate conflicting or overlapping jurisdictions. Work will begin on

assessing the relative importance of various resources and to develop criteria for environmental and economic needs. Criteria for such factors as uniqueness, fragility or vulnerability will produce a "sensitivity index" which can be used to identify areas of particular concern. A study will be made of expected demands on the coastal resources, both direct and indirect. This information, together with an assessment of national and regional needs, will lead to development of a set of priorities for coastal use and an assessment of such uses. The State has a 23-person Coastal Zone Management Committee serving in an advisory capacity to the State Planning Office and the Department of Natural Resources and Environmental Control. The objective of the Delaware coastal management effort is to determine the compatibility of different uses of the coast and to protect the fragile areas, such as marshes, from pollution or unwise use. The State sees a need to provide a single focus within the government to deal with coastal management and to obtain a mechanism for effective intergovernmental coordination. A research effort to provide the necessary information for decision-making is another goal of the State.

FLORIDA

Program

A refinement of the State's coastal atlas is a first priority for development of Florida's comprehensive coastal zone plan. The three designated areas of the State -- preservation, conservation and development -- will each be analyzed thoroughly and mapped according to various factors, such as ecological significance, flooding susceptibility, historical significance and present use. An analysis will also be made of the carrying

capacity of the coastal lands, including examination of such factors as water and power supply and availability of social services.

The State's objective is to develop a coordinated management program involving all levels of government to effectively manage the coastal resource for its maximum beneficial use. The improvement of air and water quality in the coastal region is another stated goal. Improvement also of the productivity of the coastal region and the protection or improvement of its essential biological features is an additional aim of the officials developing the State coastal zone program.

GEORGIA

Program

During the first year of program development, the State plans four major inventories and analyses. The vulnerability of coastal land resources will be mapped and evaluated. A similar effort will be made with regard to coastal water resources. An assessment is to be made of the compatibility of present, proposed and potential uses of the land and water resources of the coast. The fourth effort will be to assess the impact of various types of activities on the coastal ecosystem. The aim of this activity is to produce a handbook which will be a guide to developers and local governments and can serve as a basis on which regional policies can be made with regard to development suitability in certain areas. A land use survey of the coastal zone will be made with particular attention to be paid to those uses felt to be incompatible with the carrying capacity of the land and/or water.

The objective of the coastal zone program development effort is to improve the decision-making process in the coastal area and to provide an effective and coordinated governmental response to the pressures for use of coastal resources. Another objective of the plan will be to protect the fragile areas of the coast and to provide for improved water quality in the area.

HAWAII

Program

The State plans to address itself to the specific requirements of the Coastal Zone Management Act in preparation of its coastal zone management program. The boundary of the State's coastal zone, for instance, will be examined in the first year of activity and alternatives explored. An inventory, mapping and categorization of land and water uses will be made as a first step towards designating permissible uses. An analysis of the capacity of the coastal area will be made as well. Areas of particular concern will be studied and a legal analysis will be made of various mechanisms of land and water use control at the State level. County and local goals will be determined along with State priorities and objectives. The first goal of the Hawaii coastal zone management program is to preserve and improve the quality of the coastal environment for recreation, resource conservation and the social well-being of the people. The second objective is to promote orderly growth of commerce and industry so long as it is compatible with the first goal.

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ILLINOIS

Program

A first priority for development of Illinois' coastal zone management effort is to compile a description of the physical land uses now made of the Lake Michigan shore as well as gathering data about the legal status of the local and State jurisdictions. Among the physical data to be assembled will be a study of offshore and onshore topography, a survey of public and private land uses along Lake Michigan and an inventory of ecological and historically important areas. A collection is to be made of all case law pertaining to coastal zone management. Two mapping efforts are to be undertaken during the first year of program development, one a topographic map of the shoreland and the other a bathymetric and sediment map of the nearshore. A look will also be taken of the effects on erosion of man-made structures along the lake coast. Other data pertinent to the erosion problem, such as wind, wave and current data, will be gathered. To assist in the coastal zone management program development, the State has named a Shoreline Advisory Committee composed of two representatives from each of the 14 municipalities along the Lake Michigan shore.

The State sees as its objective the protection and, where possible, the restoration of the natural resources of the shore of Lake Michigan. The State program aims to encourage and assist the local jurisdictions along the Lake to exercise their responsibilities to guide future lakeside activities. The State sees as an additional need the development of public awareness of the need for wise management of the shore resources.

LOUISIANA

Program

A first task for the State Planning Office is to analyze and make recommendations about the organization of State, regional and local agencies for the management of the coastal zone. An investigation will be conducted of existing legal authorities, the functions of the various State and sub-State agencies in the coastal zone and a review made of previous studies dealing with coastal problems. Another major effort will be directed toward improving the decision-making process. A key element here will be development of the capacity to inventory, monitor and analyze ecological indicators to be able to detect changing conditions and to predict the impact of proposed actions. Current and projected demands on the State's coastal resources will be compiled, along with an analysis of the capacity of the zone to accommodate projected uses. Criteria for selecting areas of particular concern will be developed along with specific management principles for each area. Louisiana's objective in development of its coastal zone program is to be able to assess the impact of proposed activities on water flow and water quality before the authorization to proceed is given. The State hopes to be able to assess the impact of proposed uses on its coastal marshes and to be able to determine the cumulative effect on the entire system from such uses. It is hoped the plan will encourage urban and industrial growth in the most suitable areas and to discourage such activity in the relatively undisturbed wetland areas.

MAINE

Program

The State Planning Office, as a first effort, plans to produce a coastal atlas for Maine which will detail the resources of the coast and their capa-

bility. A total of 12 resource land capability maps will be prepared which will combine with physical maps to present a clear picture of the coast of Maine. Research activities planned include a look at the biological and chemical tolerances of estuaries and their ability to withstand alteration. An inventory is to be made of historic and scenic sites along the coast. Working with the State Parks and Recreation Bureau of the Department of Conservation, the planning office will develop a recreation/conservation area plan for the State. The ultimate aim of the planning group is to classify the coast into four basic areas: critical areas with overriding State concern, resource protection zones, resource management zones and development areas.

For the overall objective of the State's coastal zone management program, Maine sees the identification of areas of major conflict needing immediate attention as a high priority. The aim is to develop an institutional mechanism to coordinate a sound management system.

MARYLAND

Program

The State plans to examine existing coordinating mechanisms among affected units of government and to develop recommendations if needed for improvement. Also to be prepared in the first year's activity is an information management program. There is to be a review of existing Federal and State statutes, regulations and financial mechanisms, as well as the State's present control to effectively manage the coasts. A major effort will be to identify areas for non-development. This will develop during an overall inventory of the entire coastal zone. To be able to compile a list of

permissible uses, the State will prepare criteria for assessing the impact of different uses, identify present and potential activities along the coast, identify the resource requirements of such uses and identify the conflicts which might be foreseen.

The first-listed goal for Maryland's coastal management effort is to identify and perfect the mechanism to protect areas which it determines should not be developed, because of biological, recreational, aesthetic, scientific or historical reasons. A second goal is to prepare guidelines for activities in areas not set aside for preservation. A third overall objective is the establishment of a means by which both private and public decisions are made to minimize conflict and to protect the natural resource base on which coastal uses of all kinds depend.

MASSACHUSETTS

Program

Those charged with preparation of Massachusetts' coastal zone management program plan to inventory existing natural resource data at the outset of their effort. Cultural, historic, scenic, socio-economic and present use information will be compiled in this effort. Also to be gathered in the first year of program development is information about the impacts of different types of activities on the coastal zone. Analysis of impacts on the ecosystem will be balanced by a study of the socio-economic impacts if certain of the uses should be prohibited. The resource inventory will be used to prepare a master listing of areas of critical State concern in the coastal zone. A study is also to be made of all relevant Federal, State, regional and local management tools. A look will be taken at the accomplishments of local zoning bodies and conservation commissions to see if their

activities could be strengthened. An assessment will be made of whether or not the State needs additional powers to acquire critical coastal properties or assert its interest other than in outright purchases.

Massachusetts' objective is to develop a management system that builds on traditional local decision-making but permits State overview on matters which affect more than local interests. Encouragement of commercial, industrial, port and energy facility requirements with minimum damage to the coastal environment is a major program goal. Improved access for the public to beach areas and other recreation activities in the coast is also a major objective.

MICHIGAN

Program

The officials charged with developing Michigan's coastal zone program plan to devise a set of goals for the ten affected planning regions with particular attention to be given permissible land and water uses. The impacts anticipated in the regions from prospective uses will be pulled together into a Statewide report. Data on land use and ownership will be assembled in the first year of program development. Also to be assembled is information on the physical features of the coast, locations of unique features and significant ecological resources. Data required for the Shorelands Protection and Management Act will be assembled regarding the areas of environmental significance and of high risk for erosion. Another first year task will be to identify future requirements along the lakeshore for shipping, including port requirements and dredging prospects. An early effort will be made to categorize existing statutes, rules and guidelines

at State and local levels to evaluate their usefulness in a comprehensive management program.

The objectives of the Michigan coastal zone effort are to protect the overall integrity of the State's Great Lakes shore areas and to preserve the coastal ecosystem. Another State goal is to facilitate the orderly use and development of coastal resources as for transportation, recreation, industry and agriculture. Preservation of unique cultural, historic, scenic and scientific values is an additional goal of the State program.

MINNESOTA

Program

Two major inventories of the State's coastline are planned in the first year of a coastal zone management program development. One will list the resources of the coastal zone, natural, historic, cultural and scientific. Such factors as geology, climate, water resources and fish and wildlife will be included. The second inventory will be of current use of the coastal zone and the factors affecting that use. When completed, the information will be included in the Minnesota Land Management Information System and analyzed to determine the suitability of resources for various land uses and to identify areas with development potential and areas particularly fragile. A survey of existing legal authorities and of present institutional arrangements will be made to determine if either new legislation or different administrative action is needed. An early effort will be made to determine if any areas of the coast qualify for inclusion under the State's Critical Areas Act of 1973 which permits designation of areas which would be damaged by uncontrolled development. The State has as an objective in

its coastal management program the identification of gaps or overlaps in legal authority for possible legislative changes to permit effective control of coastal zone resources and to permit successful implementation of the State's coastal zone program. An effort to provide coordination among governmental units and with interested citizens is a stated objective. The identification of conflicting or inconsistent goals among Federal, State, local and regional entities so that these might be eliminated and a unified program developed is another stated objective of the planning agency.

MISSISSIPPI

Program

During the first year of program development. the State plans to evaluate all existing information about the coast to identify gaps and initiate needed new research. The State plans to decide on broad policy goals in its first year and to begin looking at objectives in such specific areas as industrial development, commerce, residential development, recreation, mineral extraction, transportation, waste disposal and fisheries. Other first-year efforts by the council are to include an assessment of the impact of existing and projected uses and the carrying capacity requirements of those uses, a categorization of current and expected use conflicts and evaluation of the interrelationships between specific coastal environments. There is also to be a legal analysis of the alternate mechanisms which might be used to regulate land and water uses.

For its objectives, Mississippi sees as its first goal the ability to develop its coastal resources in a manner which will protect resource values and minimize irreversible commitments of land and water. Development of a coordinated system able to deal with immediate problems and also remain aware of long-range considerations is another objective of the coastal zone effort. The need to develop an educational system by which research information is disseminated is also seen.

NEW HAMPSHIRE

Program

The aim of the coastal zone management program development in New Hampshire is to have a unified and comprehensive plan ready for presentation to a session of the legislature in 1976. As a first step toward this goal, an extensive inventory of information about the coastal region will be pulled together in coherent fashion. Information in three areas will be developed: biological populations, mineral and petroleum resources; ways of assessing the impact of various land and water uses; and development of policies with regard to different uses of the coastal zone based on the assessment of impact. A thorough look at the roles of State, regional and local governments will be taken and legislation developed to blend with existing authorities as well as to add the needed decision-making and appeal procedures.

The objective of the New Hampshire program effort is to establish a mechanism for rational decision-making about use of coastal resources. Extensive development of information upon which to base management decision is seen as needed, as in development of models which will permit predictions of the effects of certain development decisions, gathering

basic data about the biological, chemical and physical characteristics of the State's coast and the legal, political and economic aspects of private property rights.

NEW JERSEY

Program

The first year of program development will concentrate on an environmental inventory which will include natural resources, current land use, wetlands delineation and the identification of all agencies with coastal zone responsibilities. Techniques for detecting changes, both natural and man-made, will be identified.

Particular emphasis will be placed on remote sensing from aircraft or satellite. A matrix is to be developed to identify activities associated with various land uses, their environmental impacts and the natural resources information needed to analyze these impacts. Basic social and economic data for the coastal region will be gathered from existing sources. Ahead in the program will be development of indices for economic and environmental impact which will guide the selection of permissible uses. The overall objective of the coastal zone management effort is to control land and water uses so as to prevent further degradation of the coast and enhance the environment, while permitting maximum resource utilization. Some of the specific objectives the State has set for itself include the enhancement of recreational opportunities in the coast, minimization of use conflicts and adverse environmental effects from industrial, commercial and residential activity, to conserve the biological productivity of the wetlands and to achieve acceptable air and water quality standards while meeting social and economic needs.

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NORTH CAROLINA

Program

The State plans to proceed with implementation of its newly-enacted coastal zone law by selecting sites for interim designation as areas of environmental concern. Particular attention will be paid areas under some prior form of State regulation, such as tidal marshes, coastal inlets, flood areas and water supply areas. Another early effort will be preparation of guidelines for use by local government units as they prepare plans for their land and water resources. Particular attention will be given the nature of development to be permitted in areas designated by the coastal commission as being of environmental concern. The State envisions a planning grant program to local units of government to assist them in preparation of the land and water use plans called for in the 1974 legislation. The coastal area commission is also charged with preparing a coordinated permit system in the coastal area and to present its recommendations to the 1975 meeting of the State legislature.

The State has set as its goal of the coastal zone management effort to preserve and manage the natural ecological conditions of the estuaries in the coast. With this goal is the aim to ensure the development proceeds in a manner consistent with the capacity of the land and water resources. Protection of scenic and historic places, plus provision of recreation and tourist facilities are also set out as goals of the North Carolina coastal management program.

OHIO

Program

Ohio's program development effort has two components, policy development and problem identification which will be the objective of the first

year's effort, leading to development of a technical plan and management program later in the process. As a first step, the resources of the State's coastal zone will be inventoried, and the economic, social and environmental implications of existing and future uses of the area will be assessed. There is to be a legal and administrative analysis and a legislative program developed for achieving a sound management program. The first year's effort will identify any special studies which need to be undertaken to aid in further program preparation. The second-phase activity will develop a permissible use review process, a priority of use system, a means of identifying areas of particular concern, and a land and water resource inventory program. The objective of the program development is to define a mechanism for allocating among competing users the scarce resources available and to do so in a rational and sound manner.

OREGON

Program

A resources capability study is being undertaken under the coordination of the Pacific Northwest River Basin Commission which will provide Oregon's coastal zone management program developers with basic economic data. At the same time, local economic development districts have been conducting planning studies; the State coastal zone group plans to unite these local studies into a report. A major effort in the initial stages of preparing a coastal plan for Oregon is development of an inventory with baseline data in 18 resource categories. Each of the primary categories is to be described in terms of eight characteristics, such as climate, geology, soils, vegetation, wildlife and land use.

The objective of the Oregon coastal zone management development effort is to lead to a system whereby the maximum retention of options in coastal use are retained for the future. A secondary goal is to preserve natural processes to the extent necessary for environmental quality. Coordination among governmental units and the need to develop public awareness and participation in the coastal management process are also cited as objectives.

PENNSYLVANIA

Program

Inventories will be assembled on existing conditions on both coastlines, as well as resource uses and activities, both natural and cultural. Criteria will be identified for assessing the impact of various land and water uses. Sites will be identified for facilities serving greater than local needs and a list of permissible land and water uses will be compiled. Criteria for designating areas of critical concern will be established. After investigating alternate program approaches, one will be selected and assessments made of its environmental impact, socio-economic impact and implementation costs. Aerial photographic mapping will be used to supplement existing planning data assembled at local, regional, State and Federal levels.

The objectives of the State include control of erosion, guiding waste disposal activities to areas of minimum impact, maximizing the recreational use of the coast, protecting the State's wetlands and providing ample supplies of low-cost water. The coastal plan will aim to maximize the economic advantages of industrial locations in the coast and attempt to do the same for both year-round and seasonal housing.

PUERTO RICO

Program

After assembling data on the standards or criteria agencies presently use to assess proposed land and water uses, the Department of Natural Resources, together with the Planning Board, will establish criteria for assessing impacts of existing and projected uses. Criteria also will be set for the designation of areas of particular concern, taking into account intensity of development, restoration potential and other factors. Complete biological, chemical, geological and environmental data will be assembled. To be done by the Planning Board, the work will result in designation of areas categorized by immediacy of concern and priority of importance. A study will be made of all laws, decisions and regulatory actions pertinent to developing a system of controls of land and water uses in the coastal zone. The effectiveness of existing governmental arrangements will be studied and alternative arrangements looked at. Based on the foregoing work, guidelines will be prepared for priorities of use in certain areas of the coast. The Commonwealth has as one of its goals the early designation and acquisition of an estuarine sanctuary under provisions of that title of the Coastal Zone Management Act (See Section IV). Another aim is to establish protected wildlife areas. Public access to beaches will be maximized consistent with the biological and physical limitations of the areas. The direction of offshore sand and gravel activity into selected areas sufficient for the Island's needs is another objective of those developing the Commonwealth's comprehensive coastal zone program. It is also hoped that those activities which lack economic or environmental justification for a shoreside location can be moved.

RHODE ISLAND

Program

Extensive analyses in two broad categories -- natural features and economic factors -- are planned in development of Rhode Island's comprehensive coastal zone management effort. Much work has already been completed in the natural resource area. The objective is to provide inventories covering the following topics: marine geology, hydrography, chemical properties, climate, benthos, fish and wildlife, shoreline features, land use and ownership, pollution, recreation, public facilities and utilities, and industrial and commercial activities. A special assessment is planned for the effects of offshore sand and gravel extraction. An attempt to design an effective lease fee arrangement for structures using public waters will be made. Other special study areas will cover salt marsh qualities, power plant siting needs, recreation capacity and projected demand, and the type of additional management controls which might be needed. Already completed are studies of unique natural and scenic areas in the coastal zone and of barrier beach conservation. The State has as its objective the identification and evaluation of its coastal resources, the current and potential problems with each resource, and their rational management in the future.

SOUTH CAROLINA

Program

Those charged with preparing South Carolina's coastal zone management program see the development of an inventory and eventual allocation of coastal resources as a critical element. Criteria are to be developed for estimating the impacts of various uses on the land and water resources. Use conflicts will be categorized. A continuing assessment of the resources of the coastal

zone will be begun, and sites are to be selected for "non-local" facilities. Based on criteria to be devised, areas of both critical and non-critical concern will be designated and data on each type collected. Priorities of use are to be assigned for both the critical areas and those of a less critical nature. There is to be an analysis of State and Federal legislation and regulations and legislation devised for presentation to the legislature. The State has set as its goal the objective of ensuring that the quality and extent of the coastal environment is maintained while recognizing the economic and social needs of coastal residents. The plan aims to guide future economic growth in the region in such a way as to minimize adverse effects on the environment. The State coastal zone program developers also hope to be able to minimize conflicts among coastal zone users. The program will attempt to allocate clearly the responsibilities of various units of government to provide for a coordinated effort.

TEXAS

Program

The General Land Office plans action in a number of areas in preparation of its coastal management program. The existing limits of coastal zone management authority on the part of the State will be identified. The Coastal Zone Planning Group will catalog all existing data and research in the coastal zone. An inventory will be made of interested local and State groups and the goals they would wish to see accomplished. A series of hearings and workshops will be held to permit additional public input. Several technical studies will be undertaken, including those on the establishment of criteria for determining how Statewide interest in the coastal zone is to be implemented, an assessment of the demand for coastal resources expected

from an expanding population.

WASHINGTON

Program

Among the early tasks the Department of Ecology has set for itself is preparation of two sets of maps of the coast, one for the entire shore and the other consisting of more detailed studies of critical areas. The Department plans an inventory of geographic areas of critical concern and will make a study of the capacity of various shoreline areas to accommodate different types of development activity. A further study is to be made of the significant marshes and estuaries of the coast, including a Statewide ranking of these areas and guidelines for their protection. Analysis will be made of permissible water and land uses with specific guidelines for such uses prepared. To meet what is seen as one of the major problems facing the State, an examination is scheduled into the administration of the present Shoreline Management Act to identify deficiencies and to test the impact of various possible alternate systems.

Washington's objectives are to develop a mechanism which will protect the public interest in the coastal zone while recognizing the rights of private property owners, to provide for appropriate uses of the land and water resources of the coast while preserving to the greatest possible extent the natural character of the region and to develop a management system that will emphasize long-term values in the allocation of resources over short-term benefits. Protection of the coastal estuaries and major habitat areas and the improvement of water quality standards are additional State program goals.

WISCONSIN

Program

The Department of Administration plans to assemble all existing data about the State coastline. A system to monitor changes in conditions will be devised so that the eventual management system can adjust to changed situations. A series of basic maps will be prepared and inventories made on topics such as land use ownership, fish and wildlife habitats, wetlands and pollution sources. A second major task for the first year of program development will be identification of areas of particular concern. A look will be taken at the dependency of the coastal population on the land-water interface and the degree to which local economies are based on the shoreside location. The Department of Administration is working with the Department of Natural Resources and three regional planning commissions in the development of the coastal zone management program.

The objective of the effort is to determine a process by which permissible uses may be decided for the coastal area and to establish an effective intergovernmental coordinating mechanism. The State aims to have a system by which it will be able to identify changes taking place within the coastal area and to determine the probable impact of proposed changes.

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PART V



DEPARTMENT OF COMMERCE

National Oceanic and
Atmospheric Administration

■

COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS

NOTICE OF FINAL RULEMAKING

federal register



RULES AND REGULATIONS

Title 15—Commerce and Foreign Trade
CHAPTER IX—NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION, DE-
PARTMENT OF COMMERCE

PART 920—COASTAL ZONE MANAGE-
MENT PROGRAM DEVELOPMENT GRANTS

The National Oceanic and Atmospheric Administration (NOAA) on June 13, 1973, proposed guidelines (originally published as 15 CFR Part 960), pursuant to section 305 of the Coastal Zone Management Act of 1972 (Pub. L. No. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of defining the procedures by which States can qualify to receive development grants under section 305 of the Act and policies for development of their management program.

Written comments were to be submitted to the Office of Coastal Environment, National Oceanic and Atmospheric Administration before August 13, 1973, and consideration has been given these comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation. Present State and institutional arrangements for planning and regulating land and water uses in the coastal zone are often inadequate to deal with the competing demands and the urgent need to protect natural systems in the ecologically fragile area. Section 305 of the Act authorizes annual grants to any coastal State for the purpose of assisting the State in the development of a management program for the land and water resources of its coastal zone (development grant). Once a coastal State has developed a management program it is submitted to the Secretary of Commerce for approval and, if approved, the State is then eligible, under section 306, to receive annual grants for administering its management program (administrative grants).

The guidelines contained in this part are for grants under section 305 to develop a management program that will meet the requirements of section 306. Section 305 provides guidance as to what must be included in a management program while section 306 sets forth requirements that must be met before the Secretary can approve a State's management program for administrative grants. Participating States, therefore, must insure that the management program they develop under section 305 will meet the requirements of section 306. These guidelines incorporate some of the requirements of section 306. Guidelines for section 306 are being developed and will be published when available.

In general terms, section 305 requires a management program to include (1) the boundaries of the State's coastal zone; (2) a process pursuant to which permissible land and water uses which have a direct and significant impact on coastal waters are defined; (3) criteria for and designation of geographic areas

in the coastal zone of particular concern to the State; (4) identification or establishment of the means by which the State, together with other levels of government, shall exert control over the land and water uses in its coastal zone; (5) designation of priority uses within specific geographic areas throughout the coastal zone; and (6) description of the organizational structure and intergovernmental arrangements sufficient to develop and maintain an effective and coordinated management process.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing procedures for applications to receive development grants under section 305 of the Act. The final regulations and criteria published herewith were revised from the proposed guidelines based on the comments received. A total of sixty-three (63) States, agencies, organizations and individuals submitted responses to the proposed section 305 Guidelines published in the *FEDERAL REGISTER* on June 13, 1973. Of those responses received, twelve (12) were wholly favorable as to the nature and content of the Guidelines as they appear in the *FEDERAL REGISTER* on June 13, 1973. Forty-one (41) commentators submitted suggestions concerning the proposed section 305 Guidelines.

The following analysis summarizes key comments received on various sections of the interim regulations and presents a rationale for the changes made:

1. Several commentators asserted that there was a need for further elaboration on the definitions contained under § 920.2. No changes were made in response to these comments since the present definitions allow the States to adjust their programs as local conditions require.

2. Sixteen comments were received on the necessity of submitting an Environmental Impact Statement as required by § 920.10(c). The National Environmental Policy Act, 42 U.S.C. 4332, and implementing regulations, 38 FR 20562, August 1, 1973, require an Environmental Impact Statement be prepared and circulated on:

- (i) The environmental impact of the proposed action,
- (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) Alternatives to the proposed action,
- (iv) The relationship between local, short-term uses of man's environment and the maintenance of enhancement of long-term productivity, and
- (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(42 U.S.C. 4332 [C])

It is anticipated that such Environmental Impact Statements will be prepared by the Secretary, primarily on the basis of an environmental impact assessment and other relevant data, prepared and submitted by the individual States.

3. Several suggestions were made that the seven representative factors listed under § 920.13 be expanded to include renewable resource lands. The commentators expressed concern that this important area in the coastal ecosystem was not specifically identified. As a result of the concern expressed by the commentators, renewable resource lands are included in the list of representative factors which will assist in the designation of certain areas as being areas of particular concern.

4. The requirement that a "more comprehensive management program design" be submitted within 120 days after approval of the grant application has been amended under § 920.45(d). The final guidelines require that the management program design be submitted at the same time as the application for the initial grant. The reason for the above change is that the 120-day delay is not necessary and would serve as a potential source of confusion to the applicants.

5. Several comments received pertaining to § 920.14 recommended that NOAA emphasize the point that institutional questions should be raised early in the overall process. Commentators expressed concern that waiting until all the "technical work" is completed and the "plan" developed to consider the institutional vehicles for implementation would be a mistake that could foreseeably delay the implementation of the plan. As a result of the comments received, language has been inserted to encourage the States to determine at an early stage whether or not legislation is needed.

6. There appeared to be general misunderstanding of the Public Hearing requirements cited under § 920.31. In order to clarify this section it has been rewritten. The present section emphasizes that "the key to compliance with the provisions of the Act is the assurance that the public has had an adequate opportunity to participate in the development of the plan."

7. Several comments received indicated a lack of understanding by several commentators as to the exact meaning of "segmentation" under § 920.44. To eliminate any misinterpretation, the term "geographic" has been inserted before the terms "segment and segmentation" as they appear in § 920.44.

8. One commentator expressed concern over § 920.45(f) which required that where "a State chooses to reject (completed and approved regional and local) plans, it should be prepared to justify its actions as part of the management program." The above language has been amended to require a State "to advise the local government wherein" "its plan is deficient," rather than to "justify" its actions. The commentator argued that it would be inappropriate to establish a burden of proof for the States when it disagrees with actions of a regional or local body created by the State.

9. Several suggestions were made that the 15-day limit under § 920.47 be expanded. On the basis of the comments submitted, the time limit was expanded

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to "30 working days." One commentator believed that this would afford the Secretary greater time and opportunity to thoughtfully respond to State requests pursuant to this section.

Accordingly, having considered the comments received and other relevant information, the Secretary concludes by adopting the final regulations describing the procedure for application to receive development grants under section 305 of the Act, as modified and set forth below.

Effective date. November 29, 1973.

Dated: November 28, 1973.

ROBERT M. WHITE,
Administrator.

Sec.

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AUTHORITY: Sec. 305, Coastal Zone Management Act of 1972 (Pub. L. No. 92-583; 86 Stat. 1280).

Subpart A—General

§ 920.1 Policy and objectives.

(a) This part establishes guidelines on the procedures to be utilized by coastal States to obtain development grants under section 305 of the Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, and sets forth policies for the development of coastal zone management programs.

(b) Coastal zone management programs developed by the States shall comply with the policy of the Act; that is, the program must give full consideration to ecological, cultural, historic, and esthetic values, as well as to needs for economic development.

§ 920.2 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The term "Act" means the Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280.

(b) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the U.S. territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion or which is held in trust by the Federal Government, its officers or agents.

(c) "Coastal waters" means (1) those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries; and (2) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.

(d) "Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of these guidelines, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(e) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the seawater is measurably diluted with freshwater derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(f) "Secretary" means the Secretary of Commerce or his designee.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other permanent media of communication, prepared and adopted by the State in accordance with the provisions of these guidelines, setting forth objectives, policies, and standards to guide and regulate public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water within the coastal zone.

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone.

§ 920.3 Applicability of air and water pollution control requirements.

Notwithstanding any other provisions of this part, nothing in this part shall in any way affect any requirement (a) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (b) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to these guidelines and shall be the water pollution control and air pollution control requirements applicable to such program.

Subpart B—Content of Management Programs

§ 920.10 General.

(a) The guidelines for section 305 of the Act have been structured to parallel the language and sequence of requirements in the Act. This approach has been followed to facilitate references to the Act. It is not required that this sequence be rigorously followed in developing the management program and in carrying out the specific tasks contained therein. It is anticipated and acceptable that the approach taken for development of programs will vary. These guidelines should not be interpreted as limiting State approaches or the contents of their management development grant applications.

(b) Section 305(b) required the inclusion of six elements in the initial development of State coastal zone management programs. These minimum requirements are set forth below with accompanying commentary that is designed to guide State responses to these key provisions of the management program development grant effort.

(c) It is anticipated that an environmental impact statement will be prepared and circulated on a State's management program prior to its approval by the Secretary of Commerce, in accordance with the terms of the National Environmental Policy Act and its associated administrative regulations. The Secretary will prepare and circulate an environmental impact statement on the basis of an environmental impact assessment and other relevant data, prepared and submitted by the individual States.

§ 920.11 Boundaries of the coastal zone.

Section 305(b)(1) requires the management program to include "an identification of the boundaries of the coastal zone subject to the management program." The definition of the coastal zone in the Act recognizes that no single geographic definition will satisfy the management needs of all coastal States, because designation of the coastal zone for management purposes must take into account the diverse natural, institutional, and legal characteristics that are subject to decisions made in fulfillment of other requirements of the Act and this subpart. Determination by a State of the extent of the coastal zone of that State land-

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ward from the shoreline presents a very important conceptual and operational issue for State study, analysis, and decision. The following factors should be considered:

(a) In order to develop an orderly and effective management program, States may wish initially to delineate a planning area which generally is larger than, and encompasses the area ultimately identified as the coastal zone. Such a two-step procedure would enable a State to undertake planning studies and policy development for a relatively broad region aimed at a later final determination of the smaller coastal zone where specific land and water use controls, regulations, and active management activities will be applied. Demographic, economic, developmental, and biophysical factors and their analysis, which will largely determine State management activities in coastal waters and the landward and seaward areas and uses affecting them, are likely to be based upon data, programs, and institutional boundaries (such as counties or areawide agencies) that encompass geographic areas larger than the coastal zone designation. Specific coastal zone programming and regulation must take into account current developmental, political, and administrative realities, as well as biophysical processes, that may be external to the restricted zone eventually selected for direct management control.

(b) The coastal zone for management purposes extends inland only "to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." However, the States are encouraged to take early and continuing account of existing Federal and State land/water use and resource planning programs. In addition, States may wish to anticipate a national land-use policy, including its application in their State, unless the State coastal zone management program applies to the entire State. States may also wish to anticipate the desired coordination between the coastal zone and proposed land use or broad resource management programs. Examples of some related statewide policies and programs which will affect and should be considered in making determinations under the Act include: Energy policy, siting of power plants and other major water-dependent facilities, surface and subsurface mineral extraction controls, overall land and water conservation policies, and many others.

(c) Lands the use of which are by law subject solely to the discretion of, or which are held in trust by the Federal Government, its officers or agents are excluded from the coastal zone. However, section 307(c) of the Act requires Federal agencies conducting or supporting activities in the coastal zone to conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs. Furthermore, before the Secretary can approve a management program, he is required under section 307(b) to consider

the views of Federal agencies principally affected by the management program. States having excluded Federal lands in coastal zone must indicate the manner in which they will coordinate with Federal officials administering such lands in the development of their management program.

§ 920.12 Permissible land and water uses which have a direct and significant impact on coastal waters.

Section 305(b)(2) of the Act requires that the management program include "a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on coastal water." In determining permissible uses, States should give consideration to "requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources." As stated in the declaration of congressional policy, these uses are to be managed "giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development." Developing indices for determining environmental and economic impact—beneficial, benign, tolerable, adverse—is the first essential analytical and policy step needed to give substance and clarity to those uses which are "permissible." Some of the factors involved in this determination include location, magnitude, the nature of impact upon existing natural or man-made environments, economic, commercial, and other "triggering" impacts, and land and water uses of regional benefit. In responding to this requirement, therefore, the following general types of study and evaluation should be undertaken utilizing existing data and available analysis where possible:

(a) Determining criteria and measures to assess the impact of existing, projected, or proposed uses or classes of uses on the identified coastal environments;

(b) Categorizing the nature, location, scope, and conflicts of current and anticipated coastal land and water use or classes of uses;

(c) A continuing compilation, verification, and assessment of the general characteristics, values, and interrelationships within coastal land and water environments.

In establishing permissible uses, States must also be cognizant of the requirement in section 306(c)(8) of the Act that the management program must provide "for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature." The State must have adequate processes for providing such adequate consideration.

§ 920.13 Geographic areas of particular concern.

Section 305(b)(3) of the Act requires that the management program include

"an inventory and designation of areas of particular concern." The inventory and analysis of the States' total coastal zone in § 920.12 should provide the basic data analysis, and criteria necessary to identify specific geographic areas of particular concern. It should be noted that geographic areas of particular concern are likely to encompass not only the more-often cited areas of significant natural value or importance, but also: (a) Transitional or intensely developed areas where reclamation, restoration, public access and other actions are especially needed; and (b) those areas especially suited for intensive use or development. In addition, immediacy of need should be a major consideration in determining particular concern. While the States will vary in their perceptions of what areas are of particular concern, criteria derived from assessing the following representative factors will assist in these designations:

(1) Areas of unique, scarce, fragile, or vulnerable natural habitat, physical feature, historical significance, cultural value, and scenic importance;

(2) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and the various trophic levels in the food web critical to their well-being;

(3) Areas of substantial recreational value and/or opportunity;

(4) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(5) Areas of unique geologic or topographic significance to industrial or commercial development;

(6) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(7) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(8) Areas needed to protect, maintain or replenish coastal lands or resources, such areas including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

This inventory and designation of geographic areas of particular concern will be of assistance in meeting the requirement in section 306(c)(9) of the Act which requires that the management program "make provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values."

§ 920.14 Means of exerting State control over land and water uses.

Section 305(b)(4) of the Act requires that the management program include "an identification of the means by which the State proposes to exert control over land and water uses referred to in (§ 920.12) including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions." A fundamental purpose of this legislation is to broaden the perspective by which decisions affecting the coastal zone are made to incorporate a statewide view. Congress in section 306(e) provided

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three methods by which a State might carry out its management responsibilities in an acceptable manner. Section 306(e) of the Act provides:

(a) Prior to granting approval, the Secretary shall also find that the program provides:

(1) For any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(i) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(ii) Direct State land and water use planning and regulation; or

(iii) State administrative review for consistency with the management program of all development plans, projects, or land water use regulations, including exceptions and variance thereto, proposed by any State or local authority or private developer with power to approve or disapprove after public notice and an opportunity for hearings.

It is for the several States to determine the appropriate role of local governments in administering its coastal zone program. The Act recognizes that local governments are closest to those who will be most affected by a management program and that many sub-State units often can make a useful contribution to the development of the program. Section 306 requires that: Local governments and other interested public and private parties must have an opportunity for full participation in the development of the management program; the State has coordinated with local, areawide, and interstate plans; and, the State has established an effective mechanism for continuing consultation and coordination with local governments and other units to insure their full participation in carrying out the management program (e.g., advisory councils composed of representatives of local government).

(b) Some of the issues to be addressed in identifying the means by which a State will propose to exert its control include:

(1) Whether existing State powers and authority are sufficient to exert one of the three alternative means of control specified in section 306(e);

(2) What specific modifications or strengthened mandates would be needed to qualify the State under section 306(d) and (e);

(3) Whether a shared State-local or State-areawide regional consolidated regulatory system should be established.

It is important that the States determine at an early stage whether legislation is needed, and identify the elements of that legislation to meet the requirements in section 306(d) and (e). This requires that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, have authority for the management of the coastal zone in accordance

with the management program. Such authority shall include power—

(i) To administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and,

(ii) To acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means where necessary to achieve conformance with the management program.

The required listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions will, of course, be one foundation for analyzing and making decisions concerning the above issues and alternatives. In order to undertake the kinds of work outlined above, however, it will be necessary to go beyond a mere listing by preparing an assessment of current legal constraints or prohibitions, needed executive or legislative initiatives, and where required, to prepare the elements of any legislative program needed to establish a comprehensive and effective management program. There is room to exercise strengthened design and management imagination and creativity under this program for coastal zone management. While past research and planning efforts have often been limited by existing law, policy and practices, the Act encourages creative approaches to action programs for orderly development, and preservation or restoration of areas within the coastal zone for their conservation, recreational, ecological or esthetic values. Thus, the States are encouraged to consider innovative techniques or strategies that are now being tested and utilized both in the United States and elsewhere that they deem suitable to their management needs.

§ 920.15 Designation of priority uses within specific geographic areas throughout the coastal zone.

Section 305(b)(5) of the Act requires that the management program include "broad guidelines on priority of uses in particular areas including specifically those uses of lowest priority." This required element is closely tied to the requirements in §§ 920.12 and 920.13 and should build upon the States' findings and conclusions reached concerning "permissible uses" and areas of "particular concern." These decisions should assist the State in establishing preferred uses tailored to specific areas in its coastal zone. Priority guidelines will serve three essential purposes:

(a) To provide the basis for regulating land and water uses in the coastal zone;

(b) To provide the State, local governments, areawide/regional agencies, and citizens with a common reference point for resolving conflicts, and

(c) To articulate the States' interest in the preservation, conservation, and orderly development of specific areas in its coastal zone.

It should be noted that States will be expected to utilize all available information

relating to characteristics of the coastal zone when planning for specific uses. For example, data on flood inundation at 100-year intervals should be examined to determine the feasibility or wisdom of construction on affected sites.

§ 920.16 Organizational structure to implement the management program.

Section 305(b)(6) requires a management program to include: "A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional and interstate agencies in the management process." One essential element of the organizational structure is the requisite State involvement in land and water use decisions in the coastal zone as set forth in § 920.14. Another, is the process of coordination by the State with local, areawide, regional and interstate agencies, in the development and administration of the management program. Guidance with respect to organizational structure is provided in section 306(c) which requires that the Secretary, prior to granting approval of a management program, find that:

(a) The State has—

(1) Coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(2) Established an effective mechanism for continuing consultation and coordination between the management agency designated (by the Governor) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this Act.

(b) The management program and any changes thereto have been reviewed and approved by the Governor.

(c) The Governor of the State has designated a single agency to receive and administer the grants for implementing the management program.

(d) The State is organized to implement the management program required under paragraph (d)(1) of this section. Based on policies, management approaches, technical data, priorities and existing or potential powers and authorities developed by the State in §§ 920.11 through 920.15, the critical issues of organizational structure, administrative responsibilities and institutional arrangements must be resolved. While a detailed institutional structure for achieving the Act's objectives cannot be specified in advance of development of the management program, the agency designated, or to be designated, by the Governor to re-

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ceive and administer management grants should have:

- (1) Authority to correlate the activities of all State, local, areawide/regional or other entities in the coastal zone;
- (2) Appropriate access to the Governor; and
- (3) Requisite powers set forth in section 306 of the Act.

In addition, States should strengthen cooperative mechanisms for State-Federal consultation in key mutual areas of concern, particularly where Federal activities affect the coastal zone. Section 306 requires that the management program provide for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit. Cooperation among the various State and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action, particularly regarding environmental problems and resource development in the national or regional interest, is encouraged.

Subpart C—Research and Technical Support

§ 920.20 General.

(a) It is clear that the process of developing (and operating) a management program for the coastal zone will necessarily involve frequent access to informational and research sources. In many cases, adequate understanding of questions such as dune stabilization, barrier beach dynamics, salt marsh productivity and estuarine circulation and flushing, to mention only a few, will be needed in order to develop successful management programs. Also, the process of inventorying and mapping the nature of a State's zone, and designation of areas of particular concern almost certainly will benefit from the application of technologies such as those employing remote sensing.

(b) A substantial number of sources for such information exist within Federal agencies, in universities, in State and Federal laboratories and research centers, and in the private sector. NOAA's Office of Coastal Environment, with the assistance of the Environmental Data Service, will endeavor to serve generally as a clearinghouse for specialized coastal zone technical information, and will issue pertinent publications on appropriate technical support available at least from Federal sources.

(c) Because some features of the coastal zone remain incompletely understood, States may find it necessary to act without all of the basic technical information that they require. The Office of Coastal Environment intends to identify unsolved coastal research problems and will seek to facilitate their solution. Monitoring programs established as part of the development of a management program may also, if properly designed, produce data which can be used to elucidate important coastal zone phenomena.

(d) It should be pointed out that the primary emphasis of the coastal zone

management program is to create the mechanism for States to exert appropriate control over land and water uses and to begin the management process, not to engage in long-term research projects. Applications for management program development grants which contain substantial research elements will be carefully reviewed to assure that these elements are essential to the successful development of a State's management program and are an integral part of a comprehensive review of existing information relating to the management program. Clearly, the nature of this program will give preference to and encourage research in such applied activities as resource surveys, inventories, and determination of environmental carrying capacities.

(e) In developing their management programs, States should always endeavor to locate and utilize existing information and research sources to the extent applicable and available rather than undertaking unnecessary independent research or information gathering as part of program development effectiveness. In this respect, the Office of Coastal Environment should ordinarily be initially contacted to ascertain what information and assistance it can provide.

§ 920.21 Approaches to research activities.

In addition to taking full advantage of the various sources of technical information found within the individual States, the States will also find that one of the important sources of technical information will be the various components of NOAA which support ongoing programs in coastal research and mapping, physical oceanography, and hydrography. Those elements of NOAA which States may wish to contact for assistance include:

(a) Office of Sea Grant: Supports a large program of university research aimed largely at coastal zone-related problems. Contact Office of Sea Grant, Pennsylvania Building, 425 13th Street NW., Washington, D.C.

(b) National Ocean Survey: Conducts a substantial inhouse effort on coastal mapping and charting, geodesy, hydrography, and related subjects. Contact National Ocean Survey, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

(c) National Marine Fisheries Service: Undertake biological and ecological research and other programs relevant to commercial and sport fisheries of all types. Contact National Marine Fisheries Service, Page Building 2, 3300 Whitehaven Street NW., Washington, D.C.

(d) Environmental Data Service: Monitors large quantities of environmental data of all types, including weather, oceanographic and earth sciences. Includes National Oceanic Data Center. Contact Environmental Data Service, National Oceanic and Atmospheric Administration, Page Building 2, 3300 Whitehaven Street NW., Washington, D.C.

(e) Environmental Research Laboratories: Conduct a wide ranging research

program in the ocean and atmospheric sciences. Contact Environmental Research Laboratories, National Oceanic and Atmospheric Administration, Boulder, Colo. 80302.

(f) Office of Coastal Environment: Contains responsibility for administration of the Coastal Zone Management Act as well as a number of coastal environmental studies and manned underwater activity programs. Contact Office of Coastal Environment, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

(g) Other sources of information and resources are:

(1) Research carried on by or for the U.S. Army Corps of Engineers;

(2) The Environmental Protection Agency has information on environmental programs and water quality studies and could be consulted for technical information and assistance in environmental pollution control problems and techniques;

(3) Department of Housing and Urban Development research program;

(4) Office of Water Resources Research, U.S. Department of the Interior;

(5) National Science Foundation—Research Applied to National Needs; and

(6) U.S. Geological Survey water and minerals resources investigations.

(h) In addition to the research activities cited above, there are many ongoing programs conducted by agencies at the State and Federal level which can provide technical assistance and should be utilized where appropriate. Inasmuch as further effort will be made to identify relevant Federal program, they are not described in detail here. They are, however, housed in such Federal agencies as: Regional Economic Development Commissions.

Soil Conservation Service,
U.S. Geological Survey,
National Aeronautic and Space Administration,
Atomic Energy Commission,
Water Resources Councils and Associated River Basin Commissions.

(i) Finally, it is important to establish and maintain a relationship with the research community, designers, planners, decisionmakers, and managers. Because applied and basic research will be a continuing need in coastal zone management, States should review and develop explicit statements of their research needs and strengthen their contacts and involvement with the private and public research community, by taking a lead role in determining research and technical assistance priorities, continuing mutual project development activities and translation of scientific findings into information useful for managers.

Subpart D—Public Participation

§ 920.30 General.

Public participation is an essential element of development and administration of a coastal zone management program. Through citizen involvement in the development of a management program, public needs and aspirations can be reflected in use decisions for the

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coastal zone, and public support for the management program can be generated. Participating States, therefore, should seek to obtain extensive public participation in the development and administration of a coastal zone management program.

§ 920.31 Public hearings.

Section 306(c)(3) of the Act requires that public hearings be held in the development of the management program.

(a) *Notice.* Notification of public hearing should provide the public the longest period of notice practical, but in no event should notice less than the 30-day statutory minimum be provided. Announcement of the hearings should be through media designed to inform the public—not merely to provide “technical notice.” Therefore, in addition to any publication of legal notice as required by State law, reasonably informative news releases should be made available to the news media in the affected communities.

(b) *Access to document.* At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, the agenda for the hearing, and other data, must be made available to the public for review and study in the locale where the hearings are to be conducted.

(c) *Number of hearings.* Where a State has determined that a public hearing or hearings will be held only on the entire plan, it shall assure that the public is afforded an adequate opportunity to participate in the hearings.

Where a portion of the plan has been developed prior to the effective date of this Act, the requirement for public hearings under this Act shall be satisfied if the State shows that hearings complying with requirements of this section have been held on such earlier developed portions of the plans, or if the State provides a full opportunity for public hearings on the plan prior to submission of the plan for approval under section 306. In reviewing the plan submitted by a State, the Secretary will not approve any plan unless there has been a full and effective opportunity for public involvement in every portion of the plan. The key to compliance with the provisions of the Act is the assurance that the public has had an adequate opportunity to participate in the development of a plan. More than one public hearing on the plan is not required: *Provided*, That a hearing is conducted prior to final adoption of the plan and members of the public are given adequate notice of the hearing and a full opportunity to effectively participate and make their views known at such a hearing.

(d) *Location of hearings.* Hearings should be held in those geographic areas which would be principally affected by the decisions on issues under consideration at the hearing, e.g., establishment of priority uses for a given geographic area. Hearings on the total management program should be held in places within the State where all citizens of the State may have an opportunity to comment.

(e) *Timing of hearings.* In many cases,

the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to insure that hearings are held when those populations most likely to be affected are present.

(f) *Report.* A verbatim transcript of the hearings need not be prepared but a comprehensive summary should be prepared and made available to the public within 30 days after the conclusion of the hearing. A copy of these summaries shall accompany the management program when it is submitted to the Secretary for approval.

§ 920.32 Additional means of public participation.

Formal public hearings may not provide an adequate opportunity for information exchange. To insure that the public is heard during the development of the program, efforts should be made to encourage discussion in various forums of the subject matter of the hearings and to take other steps to insure that the public can participate in the process in a meaningful manner. The following are suggested to accommodate increased public participation:

(a) Establish arrangements for exchanging information, data, and reports, among State and local government agencies, citizen groups, special interest groups, and the public at large, throughout the development and administration of the coastal zone program.

(b) The State should provide, after notice, the opportunity of participation by relevant Federal agencies, State agencies, local organizations, port authorities and other interested parties both public and private.

(c) Develop mechanisms in addition to public hearings to allow citizens and the public at large to effectively participate in the coastal zone program. The following are examples of some of the components that may be used in the participation process:

(1) Citizen involvement in the development of the goals and objectives.

(2) Citizen appointment by the agency to a Citizen Advisory Committee.

(3) Establishment of processes to review component elements of the management program by selected citizen groups and the general public.

Subpart E—Applications for Development Grants

§ 920.40 General.

(a) The primary purpose of the development grant is to assist States in developing a comprehensive management program for their coastal zone. While the majority of the responsibility for developing a management program resides with the State, a State is permitted to allocate a portion of its grant to sub-State entities, or multi-State organizations, to assist in the development of a management program. At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in geographical segments so that immediate attention may be devoted to those areas within the

coastal zone which most urgently need management programs: *Provided*, That the State adequately provides for the ultimate coordination of the various geographical segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable. Grants given to the State must be expended for the development of a management program that meets the requirements of the Act. The grants shall not exceed two-thirds of the costs of the annual programs. Federal funds received from other sources cannot be used to match these grants. No more than three annual management program development grants can be awarded to a State.

(b) Section 305(c) of the Act provides:

In order to qualify for grants under this section, the State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of the Act. After making the initial grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the State is satisfactorily developing such management program.

§ 920.41 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972 to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

Director, Office of Coastal Environment,
National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.

§ 920.42 State responsibility.

(a) Applications for initial development grants must be submitted by the Governor of a coastal State or his designee.

(b) The application shall designate a single State official, agency, or entity, to receive development grants and have responsibility for the development of the State's coastal zone management program. The designee need not necessarily be that agency which will be designated by the Governor under the provisions of section 306(c)(5) of the Act as the single agency to receive and administer the grants for implementing the management program.

(c) A single State application will cover all program development activities, whether carried out by State agencies, area-wide/regional agencies, local governments, regional or interstate entities.

§ 920.43 Allocation.

Section 305(g) allows a State to allocate a portion of its development grant to sub-State or multi-State entities. States must insure, in the development of the management program, that they de-

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velop sufficient capability to administer the coastal zone management programs they are developing. If the State intends to allocate a portion of its grant, the application for a development grant shall set forth the manner in which a State plans to allocate any portion of its grant to sub-State units, multi-State units, or any other allocation. Requests for allocation will not be approved unless it is clearly demonstrated that the State is developing sufficient capabilities, and the work to be accomplished as the result of such allocations is integrated into the State's coastal zone management program development effort and will clearly contribute to the development of effective applications of State's policy in the coastal zone.

(a) *Areawide / Regional agencies.* Should the application indicate the desire of the State to allocate a portion of its management program development grant to an areawide/regional agency under the provisions of section 305(g) of the Act, in the absence of State law to the contrary, preference shall be given to those agencies recognized or designated as areawide/regional comprehensive planning and development agencies under the provisions of Office of Management and Budget circular No. A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 or Title IV of the Intergovernmental Cooperation Act of 1968. The provisions of part IV, OMB circular No. A-95 dealing with the "Coordination of Planning in Multifunctional Areas" apply to the areawide/regional agencies designated as recipients of management program development grants under this Act.

(b) *Local government.* Should the application indicate the desire of the State to allocate a portion of its management program development grant to a local government under the provisions of section 305(g) of the Act, units of general-purpose local government are preferred rather than special-purpose units of local government, as provided in section 402 of the Intergovernmental Cooperation Act of 1968.

(c) *Interstate agencies.* At the discretion of two or more Governors of adjacent or related coastal States, coordinated management programs or research and planning efforts may be developed leading to the establishment of management programs for such interstate or multi-State areas. Such proposals for interstate cooperation and action shall be set forth in the application for each State together with the interstate funding arrangements proposed for the joint work. The States involved may designate interstate compact agencies, Regional Action Planning Commissions, river basin commissions, or an interstate areawide/regional planning agency to accomplish the management program development work for the coastal zone management area within each jurisdiction as they see fit. Applications for interstate management program development grants will not be accepted directly

from interstate or multi-State agencies, but only from the individual States involved in the joint program.

§ 920.44 Geographical segmentation.

Authority is provided in the Act for a State's management program to be "developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs." Request by a State to develop and adopt a program in geographical segments is subject to the additional proviso that the State "adequately provides for the ultimate coordination of the various geographical segments of the management program into a single unified program and that the unified program will be completed as soon as it is reasonably practicable." Undue geographical segmentation creates the possibility of continuing the status quo without creating a comprehensive management program.

§ 920.45 Application for the initial grant.

The application for the initial development grant shall include but not be limited to:

(a) Identification of the designated official, the State agency or entity designated by the Governor to prepare and submit the State's management program and receive its development grant as well as the legal authority or other basis under which the lead agency or entity operates. It shall also indicate what other State agencies may be involved in the development of the management program and, if the State desires to allocate a portion of its grant to other governmental units, it should identify those units and set forth the work proposed to be accomplished by each unit so identified.

(b) A summarization of the State's past and current activities in its coastal zone, the current status of coastal zone management, and other activities.

(c) A discussion and ranking by general order of importance of the major coastal zone related problems and issues facing the State, as well as identification of the goals and objectives the State hopes to achieve by development of its coastal zone management program.

(d) A management program design detailing the work to be accomplished in the development of the State's coastal zone management program. The management program design serves as an outline for the State's plan of action for developing a management program and should include a projection of how the State will seek to meet the requirements set forth in subpart B of this part. In addition, the management program design should include:

(1) An identification of existing information and sources of information;

(2) A projection as to additional information which must be acquired;

(3) A description of methods to insure public participation;

(4) A description of the intergovernmental process by which the State in-

tends to involve various levels of government in the development and implementation of the management program;

(5) A mechanism for coordination with agencies administering excluded Federal lands that are in the coastal land; and

(6) A tentative approximation of the boundaries of the State's coastal zone.

(e) Submission of an annual work program consisting of a precise statement of what is intended to be accomplished during the year. Such a statement will include:

(1) Identification of the plans, programs and studies to be produced.

(2) Definition of the major tasks needed to produce the plans, programs and studies.

(3) For each task, the following should be specified:

(i) Approach and techniques to be used,

(ii) Data and studies already available,

(iii) Manpower requirements,

(iv) Time schedule,

(v) Costs, and

(vi) Source of funds.

(f) Identification of any other State and Federal planning, programming, or activity which may have a significant impact on the State's coastal zone. Such planning, programming or activities includes work accomplished or to be undertaken by any State, areawide, local, regional or interstate agencies funded, in part or in total, by State or local money, with or without Federal assistance. Completed and officially approved regional and local plans provide invaluable input and guidance in the development of a State's coastal zone management program. It should be pointed out that where a State chooses to reject such plans, it should advise the local government wherein its proposed plan is deficient and clarify what needs to be done to correct the deficiency. The objective of this provision is to seek and achieve as complete coordination and integration as possible at the State level of all local, State and Federal programs that lead to the setting of policy or the development of public and private works, facilities or programs in the State's defined coastal zone. The Act provides in section 307(c)(1) that: "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is to the maximum extent practicable, consistent with approved State management programs." To this end, the application shall reflect, and the developed coastal zone management program will provide, methods to integrate the following types of programs and activities as they affect the coastal zone of the state: (1) Federally assisted planning development and management programs, such as but not limited to (the program numbers and titles listed below are those contained in the 1972 Catalog of Federal Domestic Assistance as published by OMB):

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PUBLIC LAW REFERENCE

Pub. L. 97-703; 91-543; 74-46.	Resource Conservation and Development.	(10.901)
Pub. L. 93-560...	Comprehensive Planning Assistance.	(14.208)
Pub. L. 98-578...	Outdoor Recreation State Planning.	(15.401)
Pub. L. 99-304; 91-249.	Anadromous Fish Con- servation.	(15.600)
	Fish Restoration.....	(15.606)
	Wildlife Restoration.....	(15.611)
Pub. L. 74-292...	Historic American Build- ings Survey.	(15.903)
Pub. L. 99-665...	Historic Preservation.....	(15.904)
Pub. L. 91-258...	Airport Planning Grant Program.	(20.103)
Pub. L. 90-495; 91-605; 89-574.	Highway Research Plan- ning and Construction.	(20.205)
Pub. L. 91-453; 88-305.	Urban Mass Transporta- tion Technical Studies Grants.	(20.505)
Pub. L. 89-80...	Water Resources Planning. Air Pollution Survey and Demonstration Grants.	(65.001) (65.005)
	Solid Waste Planning Grants.	(66.301)
	Water Pollution Control Comprehensive Plan- ning Grants.	(66.401)
Pub. L. 88-206; 89-272; 89-675; 90-148; 91-604.	Air Pollution Survey and Demonstration Grants.	(66.005)
Pub. L. 92-560...	Water Quality Manage- ment Technical Plan- ning Assistance.	(66.023)
Pub. L. 89-272; 91-512; 92-14.	Solid Waste Technical As- sistance, Training and Information Services.	(66.304)
Pub. L. 92-583...	Marine Protection Re- search and Sanctuaries.	

(2) Public works land acquisition and development projects conducted, proposed to be conducted, proposed to be conducted or assisted by a Federal agency, authorized and financed outside of the Federal programs listed above, such as activities conducted with respect to rivers and harbors, small watershed development, wastewater collection and treatment facilities, military reservations, wildlife refuges, park and recreation areas, improvements in navigation, flood control and so forth;

(3) Any Federally supported national land use program which may be hereinafter enacted as specified in section 307 (g) of the Act;

(4) Activities in the coastal zone stemming from the Rural Development Act of 1972;

(5) State programs dealing with land use controls in the coastal zone or other regulatory, licensing, permit or operating programs in the coastal zone including, but not limited to, activities such as mineral extracting, power plant siting and harbor construction.

§ 920.46 Approval of applications.

(a) The Secretary shall approve any application which he finds complies with policy and requirements of the Act and these guidelines.

(b) Should the Secretary determine that an application is deficient, he shall

notify the applicant in writing and set forth in detail the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or other adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Secretary may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

§ 920.47 Amendments.

Amendments to an approved development program must be submitted to, and approved by the Secretary prior to initiation of the change contemplated. Requests for substantial changes should be discussed with Federal officials well in advance. It is recognized that, while all amendments must be approved by the Secretary, most such requests will be relatively minor in scope; therefore, approval by the Secretary may be presumed for minor amendments if the State has not been notified of objections within 30 working days of date of postmark of the request.

§ 920.48 Applications for second year grants.

(a) Second year development grant applications will follow the procedures set forth in § 920.45: *Provided, however*, That the management program design and annual work program shall be updated to indicate the progress made toward the development of the State's coastal zone management program under the initial development grant and should in addition:

(1) Demonstrate how the past year's work activities and products contributed to the realization of management program development goals if such goals have not been fully realized. Either document the extent to which they have been met or present modified goals.

(2) Identify major constraints upon or problems encountered in establishing and implementing an adequate management program for the State.

(3) Reexamine and assess the development program's broad goals and measurable planning objectives; and

(4) Reexamine and, if necessary, revise management program design in light of emerging or continuing priority problems and opportunities.

(b) In evaluating whether a State is making satisfactory progress in the development of the management program to determine eligibility for the second

year grant, the Secretary will consider among other things whether a State has completed:

(1) An analysis of the existing legal authority to exert control over land and water uses in the coastal zone;

(2) A description of the activities and authorities of the various agencies (State, local, regional, area-wide or interstate) involved in activities or regulation of activities in the coastal zone; and

(3) An analysis of the existing or needed legal authorities with which the State believes it can insure compliance with coastal zone management program, resolve conflicts among competing uses, and acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(4) This analysis will permit a State to determine what legislative action will be needed to qualify under section 306 of the Act. States may propose alternate standards of accomplishment for consideration by the Secretary in determining "satisfactory progress" towards completion of the management program.

§ 920.49 Application for third year grants.

(a) The general requirements set forth in paragraph (a) of § 920.46 shall apply to review of the application for the third year development grant.

(b) In evaluating whether a State is making satisfactory progress in development of the management program to determine eligibility for the third year grant, the Secretary will consider among other things whether a State has completed:

(1) Identification of the boundaries of the coastal zone;

(2) Development of a process by which permissible land and water uses having a direct and significant impact upon coastal waters can be defined; and

(3) Criteria for designating geographical areas of particular concern. Accomplishment of these tasks will put the State in a position to provide guidelines on priority of uses in particular areas and allow a State to complete development of its management program by the end of the third year. States may propose alternate standards of accomplishment for consideration by the Secretary in determining "satisfactory progress" toward completion of the management program.

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PART I



DEPARTMENT OF COMMERCE

**National Oceanic and
Atmospheric Administration**

■

COASTAL ZONE MANAGEMENT PROGRAM ADMINISTRATIVE GRANTS

NOTICE OF FINAL RULEMAKING



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The regulations below set forth (a) criteria and procedures to be utilized in reviewing and approving coastal zone management programs pursuant to section 306 of the Act, and (b) procedures by which coastal States may apply to receive administrative grants under section 306(a) of the Act. The criteria and procedures under (a) constitute the "guidelines for section 306" referred to in 15 CFR 920.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing procedures for applications to receive administrative grants under section 306 of the Act. The final regulations and criteria published herewith were revised from the proposed guidelines based on the comments received. A total of thirty-two (32) States, agencies, organizations and individuals submitted responses to the proposed section 306 guidelines published in the *FEDERAL REGISTER* on August 21, 1974. Of those responses received, nine (9) were wholly favorable as to the nature and content of the guidelines as they appeared in the *FEDERAL REGISTER* on August 21, 1974. Twenty-three (23) commentators submitted suggestions concerning the proposed Section 306 guidelines.

The following analysis summarizes key comments received on various sections of the draft regulations and presents a rationale for the changes made:

1. Several commentators asserted that the guidelines did not adequately reflect the environmental considerations contained in the Act. No changes were made in response to these comments since the guidelines more than adequately reflect the environmental concerns in the legislation as evidenced in part by the comment section under § 923.4:

Management programs will be evaluated in the light of the Congressional findings and policies as contained in Section 302 and Section 303 of the Act. These sections make it clear that Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the urgent need to protect and to give high priority to natural systems in the coastal zone.

2. Several comments were received on the necessity of the Secretary of Commerce preparing and circulating an environmental impact statement on each individual State application as required by § 923.5. The National Environmental Policy Act, 42 USC 4332, and implementing regulations, 38 FR 20562, August 1, 1973, require an environmental impact statement be prepared and circulated on each individual State's application. An environmental impact statement shall be prepared on each individual State's application by the Secretary, primarily on the basis of an environmental assessment, and other relevant data, prepared and submitted by the individual States. This section

was amended to reflect the requirement of the National Environmental Policy Act environmental impact statement requirements.

3. Several comments indicated that the States did not have a clear understanding as to what was meant under § 923.11 (b) (4) which refers to Federal lands subject solely to the discretion of, or which is held in trust by, the Federal government, its officers and agents. This section has been amended in order to provide a procedure for identifying those lands which are within the framework of this section.

4. Several commentators indicated that there was uncertainty as to what the requirements of the national interest were pursuant to § 923.15. This section has been amended in order to more succinctly state what the requirements are pursuant to this section and how a State must meet these requirements during the development and administration of its coastal zone management program. At the request of several commentators, several additions have been made to the list of requirements which are other than local in nature.

5. Several commentators indicated that § 923.26, which pertains to the degree of State control needed to implement a coastal zone management program, did not offer sufficient guidance in interpreting the legislation. In response to these comments, § 923.26 has been expanded to include specific examples of how a State may implement this section.

6. Comments received indicate there was some misunderstanding in interpreting § 923.43, which deals with geographical segmentation. This section has been substantially amended in order to indicate that the segmentation issue refers to geographical segmentation of a State's coastal zone management program. The requirements for a State to receive approval on a segmented basis are clearly set forth in the amendment to the regulations.

7. Extensive discussions have taken place with various elements of the U.S. Environmental Protection Agency (EPA) concerning the applicability of air and water pollution requirements to the development, approval and implementation of State management programs pursuant to § 923.44 of the proposed regulations. State coastal zone management programs have also been surveyed in order to determine current and anticipated problems, issues and opportunities associated with carrying out the requirements of section 307(f) of the Coastal Zone Management Act, and § 923.44 of the draft approval regulations. Consolidated EPA comments have been received, together with State reviews, and one comment from the private sector. Specific clarifications and changes as a result of these reviews are contained in §§ 923.4, 923.12, 923.32 and § 923.44 of these regulations.

8. One commentator objected to the amount of detail required in section 306 applications and the undue administrative burden proposed pursuant to Sub-

Title 15—Commerce and Foreign Trade
CHAPTER IX—NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

The National Oceanic and Atmospheric Administration (NOAA) on August 21, 1974, proposed guidelines (originally published as 15 CFR Part 923), pursuant to the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of defining the procedures by which States can qualify to receive administrative grants under the Act.

Written comments were to be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, before November 22, 1974, and consideration has been given these comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation. Present State and institutional arrangements for planning and regulating land and water uses in the coastal zone are often inadequate to deal with the competing demands and the urgent need to protect natural systems in the ecologically fragile area. Section 305 of the Act authorizes annual grants to any coastal State for the purpose of assisting the State in the development of a management program for the land and water resources of its coastal zone (development grant). Once a coastal State has developed a management program, it is submitted to the Secretary of Commerce for approval and, if approved, the State is then eligible under Section 306 to receive annual grants for administering its management program (administrative grants).

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part F of the proposed regulations. The revisions attempt to both clarify and reduce those requirements, while still requiring sufficient information for the Office of Coastal Zone Management to approve management programs and make sound funding decisions.

Accordingly, having considered the comments and other relevant information, the Administrator concludes by adopting the final regulations describing the procedure for application to receive administrative grants under section 306 of the Act, as modified and set forth below.

Effective date: January 8, 1975.

Dated: January 6, 1975.

ROBERT M. WHITE,
Administrator, National Oceanic
and Atmospheric Administration.

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AUTHORITY: 86 Stat. 1280 (16 U.S.C. 1451-1464).

Subpart A—General

§ 923.1 Purpose.

(a) This part establishes criteria and procedures to be employed in reviewing and approving coastal zone management programs submitted by coastal States and for the awarding of grants under Section 306 of the Act.

(b) The Act sets forth in sections 305, 306 and 307 a number of specific requirements which a management program must fulfill as a condition for approval by the Secretary. These requirements are linked together as indicated in the subparts which follow. Presentation of the State management program in a similar format is encouraged since it will enable more prompt and systematic review by the Secretary. However, there is no requirement that a State present its management program in the format which corresponds exactly to the listing of categories below. The broad categories are: Land and Water Uses, Subpart B; Authorities and Organization, Subpart C; Coordination, Subpart D; and Miscellaneous, Subpart E. Subpart F, Applications for Administrative Grants, deals with applications for administrative grants upon approval of State coastal zone management programs which will be subject to periodic review by the Secretary in accordance with Section 309 of the Act. In addition to providing criteria against which State coastal zone management programs can be consistently and uniformly judged in the approval process and establishing procedures for the application by States for administrative grants, it is the intent of this part to provide guidance to coastal States in the development of management programs. Therefore, many of the sections dealing with approval requirement in the subparts are followed by a "comment" which refers to a section or sections of the Act and indicates the interpretation placed upon the requirements of the Act or the regulation by the Secretary.

§ 923.2 Definitions.

In addition to the terms defined in the Act and 15 CFR 920.2, the following terms shall have the meanings indicated below:

"Final approval" means, with respect to a coastal zone management program, approval of a program which terminates the eligibility of the State for grants under Section 305 of the Act and makes the State eligible for grants under Section 306 of the Act. In cases where a State has elected to follow the geographical segmentation option pursuant to § 923.43, final approval will apply only to that specific geographical segment. The State will continue to remain eligible for development grants pursuant to Section 305 of the Act for the remainder of the State's coastal zone.

"Preliminary approval" means, with respect to a coastal zone management program, approval of a program which does not terminate the eligibility of the State for further grants under Section

305 of the Act, and which does not make the State eligible for grants under Section 306 of the Act.

"Use of regional benefit" means a land or water use that typically provides benefits to a significant area beyond the boundaries of a single unit of the lowest level of local, general-purpose government.

§ 923.3 Submission of management programs.

(a) Upon completion of the development of its management program, a State shall submit the program to the Secretary for review and final approval in accordance with the provisions of these regulations. A program submitted for final approval must comply with all of the provisions set forth in Subparts A-E of this part, including, in particular, Subpart C, which requires that certain authorities and plans of organization be in effect at the time of the submission.

(b) Optionally, the State may submit for the preliminary approval of the Secretary a program complying with the substantive requirements of this part, but for which the proposed authorities and organization complying with the provisions of Subpart C are not yet legally effective. In reviewing a program submitted for preliminary approval, the Secretary may grant such approval subject to establishment of a legal regime providing the authorities and organization called for in the program. If the State elects this option, it shall continue to be eligible for funding under Section 305 but it shall not yet be eligible for funding under Section 306 of the Act until such time as its program is finally approved. Upon a showing by the State that authorities and organization necessary to implement the program which has received preliminary approval are in effect, final approval shall be granted.

Comment. The purpose of the optional procedure is to provide a State with an opportunity for Secretarial review of its program before State legislation is enacted to put the program into legal effect. Some States may prefer not to utilize the optional procedure, especially those which have legislative authority enabling the coastal zone agency of the State to put the program into effect by administrative action. In any event, the Office of Coastal Zone Management will be available for consultation during all phases of development of the program.

(c) States completing the requirements set forth in Subpart B—Land and Water Uses, and Subpart D—Coordination, will be deemed to have fulfilled the statutory requirements associated with each criteria. If, however, a State chooses to adopt alternative methods and procedures, which are at least as comprehensive as the procedures set forth below, for fulfilling those statutory requirements contained in Subparts B and D, they may do so upon prior written approval of the Secretary. The States are encouraged to consult with the Office of Coastal Zone Management as early as possible.

Comment. The thrust of the Act is to encourage coastal States to exercise their full

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authority over the lands and waters in the coastal zone by developing land and water use programs for the zone, including unified policies, criteria, standards, methods and processes for dealing with land and water uses of more than local significance. While the Act mandates a State to meet specific statutory requirements in order for the State to be eligible for administrative grants, it does not require the State to follow specific processes in meeting those requirements. The Secretary will review any State management program that meets the requirements contained in Subparts B and D in addition to the other subparts contained herein.

§ 923.4 Evaluation of management programs—general.

(a) In reviewing management programs submitted by a coastal State pursuant to § 923.3, the Secretary will evaluate not only all of the individual program elements required by the Act and set forth in Subparts B-E of this part, but the objectives and policies of the State program as well to assure that they are consistent with national policies declared in Section 303 of the Act.

(b) Each program submitted for approval shall contain a statement of problems and issues, and objectives and policies. The statements shall address:

(1) Major problems and issues, both within and affecting the State's coastal zone;

(2) Objectives to be attained in inter-agency and intergovernmental cooperation, coordination and institutional arrangements; and enhancing management capability involving issues and problem identification, conflict resolution, regulation and administrative efficiency at the State and local level;

(3) Objectives of the program in preservation, protection, development, restoration and enhancement of the State's coastal zone;

(4) Policies for the protection and conservation of coastal zone natural systems, cultural, historic and scenic areas, renewable and non-renewable resources, and the preservation, restoration and economic development of selected coastal zone areas.

(c) The Secretary will review the management program for the adequacy of State procedures utilized in its development and will consider the extent to which its various elements have been integrated into a balanced and comprehensive program designed to achieve the above objectives and policies.

Comment. Evaluation of the statutory requirements established in this subpart will concentrate primarily upon the adequacy of State processes in dealing with key coastal problems and issues. It will not, in general, deal with the wisdom of specific land and water use decisions, but rather with a determination that in addressing those problems and issues, the State is aware of the full range of present and potential needs and uses of the coastal zone, and has developed procedures, based upon scientific knowledge, public participation and unified governmental policies, for making reasoned choices and decisions.

Management programs will be evaluated in the light of the Congressional findings and policies as contained in Sections 302 and 303 of the Act. These sections make it clear that

Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the "urgent need to protect and to give high priority to natural systems in the coastal zone." A close working relationship between the agency responsible for the coastal zone management program and the agencies responsible for environmental protection is vital in carrying out this legislative intent. States are encouraged by the Act to take into account ecological, cultural, historic and esthetic values as well as the need for economic development in preparing and implementing management programs through which the States, with the participation of all affected interests and levels of government, exercise their full authority over coastal lands and waters.

Further assistance in meeting the intent of the Act may be found in the Congressional Committee Reports associated with the passage of the legislation (Senate Report 92-753 and House Report 92-1049). It is clear from these reports that Congress intended management programs to be comprehensive and that a State must consider all subject areas which are pertinent to the particular circumstances which prevail in the State. A comprehensive program should have considered at least the following representative elements:

(1) Present laws, regulations, and applicable programs for attainment of air and water quality standards, on land and water uses, and on environmental management by all levels of government;

(2) Present ownership patterns of the land and water resources, including administration of publicly owned properties;

(3) Present populations and future trends, including assessments of the impact of population growth on the coastal zone and estuarine environments;

(4) Present uses, known proposals for changes and long-term requirements of the coastal zone;

(5) Energy generation and transmission;

(6) Estuarine habitats of fish, shellfish and wildlife;

(7) Industrial needs;

(8) Housing requirements;

(9) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming and pleasure boating;

(10) Open space, including educational and natural preserves, scenic beauty, and public access, both visual and physical, to coastlines and coastal estuarine areas;

(11) Mineral resources requirements;

(12) Transportation and navigation needs;

(13) Floods and flood damage prevention, erosion (including the effect of tides and currents upon beaches and other shoreline areas), land stability, climatology and meteorology;

(14) Communication facilities;

(15) Commercial fishing; and

(16) Requirements for protecting water quality and other important natural resources.

The list of considerations is not meant to be exclusive, nor does it mean that each consideration must be given equal weight. State initiative to determine other relevant factors and consider them in the program is essential to the management of the coastal zone as envisioned by Congress.

In assessing programs submitted for approval, the Secretary, in consultation with other concerned Federal agencies, will examine such programs to determine that the full range of public problems and issues affecting the coastal zone have been identified

and considered. In this connection, developments outside the coastal zone may often have a significant impact within the coastal zone and create a range of public problems and issues which must be dealt with in the coastal zone management program.

The Secretary encourages the States to develop objectives toward which progress can be measured and will review program submissions in this light. While it is recognized that many essential coastal zone management objectives are not quantifiable (e.g. public aspirations, "quality of life"), others are, and should be set forth in measurable terms where feasible (e.g. shore erosion, beach access, recreational demand, energy facility requirements). Identifying and analyzing problems and issues in measurable terms during the program development phase will facilitate the formulation of measurable objectives as part of the approval submission.

§ 923.5 Environmental impact assessment.

Individual environmental impact statements will be prepared and circulated by NOAA as an integral part of the review and approval process for State coastal zone management programs pursuant to the National Environmental Policy Act (Pub. L. 91-190, 42 USC 4321 et seq) and its implementing regulations. The Administrator of NOAA will circulate an environmental impact statement prepared primarily on the basis of an environmental impact assessment and other relevant data submitted by the individual applicant States.

Subpart B—Land and Water Uses

§ 923.10 General.

(a) This subpart deals with land and water uses in the coastal zone which are subject to the management program.

(b) In order to provide a relatively simple framework upon which discussion of the specific requirements associated with this subpart may proceed, it may be helpful to categorize the various types of land and water uses which the Act envisions.

(1) The statutory definition of the landward portion of the coastal zone states that it "extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." Thus, the coastal zone will include those lands and only those lands where any existing, projected or potential use will have a "direct and significant impact on the coastal waters." Any such use will be subject to the terms of the management program, pursuant to Section 305(b)(2).

(2) There may well be uses of certain lands included within the coastal zone which will not have such "direct and significant impact." Such uses may be subject to regulation by local units of government within the framework of the management program.

(3) The Act also requires that management programs contain a method of assuring that "local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit." This requirement is described more fully in § 923.17.

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(c) As part of the State's management program, it must address and exercise authority over the following:

(1) *Land and water uses which have a direct and significant impact upon coastal waters.* These uses are described more fully in § 923.12.

(2) *Areas of particular concern.* Section 305(b)(3) specifies that the management program include an inventory and designation of areas of particular concern within the coastal zone. Section 923.13 deals more thoroughly with this statutory requirement. Such areas must be considered of Statewide concern and must be addressed in the management program.

(3) *Siting of facilities necessary to meet requirements which are other than local in nature.* The management program must take "adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature" (Section 306(c)(8)). This requirement is more fully discussed in § 923.15.

§ 923.11 Boundaries of the coastal zone.

(a) *Requirement.* In order to fulfill the requirement contained in Section 305(b)(1), the management program must show evidence that the State has developed and applied a procedure for identifying the boundary of the State's coastal zone meeting the statutory definition of the coastal zone contained in Section 304(a). At a minimum this procedure should result in:

(1) A determination of the inland boundary required to control, through the management program, shorelands the uses of which have direct and significant impacts upon coastal waters.

(2) A determination of the extent of the territorial sea, or where applicable, of State waters in the Great Lakes.

(3) An identification of transitional and intertidal areas, salt marshes, wetlands and beaches.

(4) An identification of all Federally owned lands, or lands which are held in trust by the Federal government, its officers and agents in the coastal zone and over which a State does not exercise any control as to use.

(b) *Comment.* Statutory citation: Section 305(b)(1):

Such management program shall include . . . an identification of the boundaries of the coastal zone subject to the management programs.

Useful background information concerning this requirement appears in Part 920.11, which is incorporated into this part by reference.

(1) The key to successful completion of this requirement lies in the development and use of a procedure designed to identify the landward extent of the coastal zone. Included in this procedure must be a method for determining those "shorelands, the uses of which have a direct and significant impact upon the coastal waters." These uses shall be considered the same as the "land and water uses" described in § 923.12, reflecting the requirements of Section 305(b)(2) of

the Act regardless of whether those uses are found, upon analysis, to be "permissible." The coastal zone must include within it those lands which have any existing, projected or potential uses which have a direct and significant impact upon the coastal waters and over which the terms of the management program will be exercised. In some States, existing regulations controlling shoreland uses apply only in a strip of land of uniform depth (e.g. 250 feet, 1,000 yards, etc.) behind the shoreline. Such a boundary will be acceptable if it approximates a boundary developed according to the procedure outlined above and extends inland sufficiently for the management program to control lands the uses of which have a direct and significant impact upon coastal waters. States may wish, for administrative convenience, to designate political boundaries, cultural features, property lines or existing designated planning and environmental control areas, as boundaries of the coastal zone. While the Secretary will take into account the desirability of identifying a coastal zone which is easily regulated as a whole, the selection of the boundaries of the coastal zone must bear a reasonable relationship to the statutory requirement. Nothing in this part shall preclude a State from exercising the terms of the management program in a landward area more extensive than the coastal zone called for in this part. If such a course is selected, the boundaries of the coastal zone must nevertheless be identified as above and the provisions of the Act will be exercised only in the defined coastal zone. It should be borne in mind that the boundary should include lands and waters which are subject to the management program. This means that the policies, objectives and controls called for in the management program must be capable of being applied consistently within the area. The area must not be so extensive that a fair application of the management program becomes difficult or capricious, nor so limited that lands strongly influenced by coastal waters and over which the management program should reasonably apply, are excluded.

(2) Inasmuch as the seaward boundary of the coastal zone is established in the Act, the States will be required to utilize the statutory boundary, i.e. in the Great Lakes, the international boundary between the United States and Canada, and elsewhere the outer limits of the United States territorial sea. At present, this limit is three nautical miles from the appropriate baselines recognized by international law and defined precisely by the United States. In the event of a statutory change in the boundary of the territorial sea, the question of whether a corresponding change in coastal zone boundaries must be made, or will be made by operation of law, will depend on the specific terms of the statutory change and cannot be resolved in advance. In the waters of Lake Michigan, the boundary shall extend to the recognized boundaries with adjacent States.

(3) A State's coastal zone must include transitional and intertidal areas, salt marshes, wetlands and beaches. Hence the boundary determination procedure must include a method of identifying such coastal features. In no case, however, will a State's landward coastal zone boundary include only such areas in the absence of application of the procedure called for herein or in § 923.43.

(4) Since the coastal zone excludes lands the use of which is by law subject solely to the discretion of, or which is held in trust by the Federal government, its officers and agents, the coastal zone boundary must identify such lands which are excluded from the coastal zone. In order to complete this requirement, the State should indicate those Federally owned lands, or lands held in trust by the Federal government, and over which the State does not exercise jurisdiction as to use. In the event that a State fails to identify lands held by an agency of the Federal government as excluded lands, and the agency, after review of the program under Section 307(b), is of the opinion that such lands should be excluded, the disagreement will be subject to the mediation process set forth in said section.

§ 923.12 Permissible land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in Section 305(b)(2), the management must show evidence that the State has developed and applied a procedure for defining "permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters," which includes, at a minimum:

(1) a method for relating various specific land and water uses to impact upon coastal waters, including utilization of an operational definition of "direct and significant impact,"

(2) an inventory of natural and man-made coastal resources,

(3) an analysis or establishment of a method for analysis of the capability and suitability for each type of resource and application to existing, projected or potential uses.

(4) an analysis or establishment of a method for analysis of the environmental impact of reasonable resource utilizations.

(b) *Comment.* Statutory citation: Section 305(b)(2):

Such management program shall include . . . a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters.

Useful background information concerning this requirement appears in 15 CFR 920.12, which is incorporated into this part by reference. Completion of this requirement should be divided into two distinct elements: a determination of those land and water uses having a direct and significant impact upon coastal waters, and an identification of such uses which the State deems permissible.

(1) *Section 305(b)(4).* In identifying those uses which have a "direct and sig-

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nificant impact," the State should define that phrase in operational terms that can be applied uniformly and consistently, and should develop a method for relating various uses to impacts upon coastal waters. Existing, projected and potential uses should be analyzed as to the level and extent of their impact, be it adverse, benign or beneficial, intra-state or interstate. These impacts should then be assessed to determine whether they meet the definition of "direct and significant impact upon coastal waters." (These are the ones by which the boundaries of the coastal zone are defined.) Those uses meeting that definition are automatically subject to control by the management program.

(2) In determining which land and water uses may be deemed permissible, a State should develop a method for assuring that such decisions are made in an objective manner, based upon evaluation of the best available information concerning land and water capability and suitability. This method should include at a minimum:

(i) An inventory of significant natural and man-made coastal resources, including but not limited to, shorelands, beaches, dunes, wetlands, uplands, barrier islands, waters, bays, estuaries, harbors and their associated facilities. This should not be construed as requiring long-term, continuing research and baseline studies, but rather as providing the basic information and data critical to successful completion of a number of required management program elements. States are encouraged, however, to continue research and studies as necessary to detect early warnings of changes to coastal zone resources. It is recognized that in some States a complete and detailed inventory of such resources may be expensive and time consuming in relation to the value of information gathered in the development of the management program. Much information, of course, already exists and should be integrated into the inventory. The Secretary, in reviewing this particular requirement, will take into account the nature and extent of the State's coastline, the funding available and existing data sources.

(ii) An analysis or establishment of a method for analysis of the capabilities of each resource for supporting various types of uses (including the capability for sustained and undiminished yield of renewable resources), as well as of the suitability for such resource utilization when evaluated in conjunction with other local, regional and State resources and uses. Resource capability analysis should include physical, biological and chemical parameters as necessary.

(iii) An analysis or establishment of a method for analysis of the impact of various resource uses upon the natural environment (air, land and water). Based upon these analyses and applicable Federal, State and local policies and standards, the State should define permissible uses as those which can be reasonably and safely supported by the resource, which are compatible with

surrounding resource utilization and which will have a tolerable impact upon the environment. These analyses, in part, will be provided through existing information on environmental protection programs, and should be supplemented to the extent necessary for determining the relationship between land uses and environmental quality. Where a State prohibits a use within the coastal zone, or a portion thereof, it should identify the reasons for the prohibition, citing evidence developed in the above analyses. It should be pointed out that uses which may have a direct and significant impact on coastal waters when conducted close to the shoreline may not have a direct and significant impact when conducted further inland. Similarly, uses which may be permissible in a highly industrialized area may not be permissible in a pristine marshland. Accordingly, the definition may also be correlated with the nature (including current uses) and location of the land on which the use is to take place. The analyses which the State will undertake pursuant to this section should also be useful in satisfying the requirements of § 923.13 through § 923.17.

§ 923.13 Areas of particular concern.

(a) *Requirement.* In order to fulfill the requirements contained in Section 305 (b)(3), the management program must show evidence that the State has made an inventory and designation of areas of particular concern within the coastal zone. Such designations shall be based upon a review of natural and man-made coastal zone resources and uses, and upon consideration of State-established criteria which include, at a minimum, those factors contained in 15 CFR 920.13, namely:

(1) Areas of unique, scarce, fragile or vulnerable natural habitat, physical feature, historical significance, cultural value and scenic importance;

(2) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and the various trophic levels in the food web critical to their well-being;

(3) Areas of substantial recreational value and/or opportunity;

(4) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(5) Areas of unique geologic or topographic significance to industrial or commercial development;

(6) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(7) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(8) Areas needed to protect, maintain or replenish coastal lands or resources, including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits and mangrove stands.

(b) *Comment.* Statutory citation: Section 305(b)(3).

Such management program shall include . . . an inventory and designation of areas of particular concern within the coastal zone.

Useful background information concerning the requirement appears in 15 CFR 920.13, which is incorporated here by reference. It should be emphasized that the basic purpose of inventorying and designating areas of particular concern within the coastal zone is to express some measure of Statewide concern about them and to include them within the purview of the management program. Therefore, particular attention in reviewing the management program will be directed toward development by the State of implementing policies or actions to manage the designated areas of particular concern.

§ 923.14 Guidelines on priority of uses.

(a) *Requirement.* The management program shall include broad policies or guidelines governing the relative priorities which will be accorded in particular areas to at least those permissible land and water uses identified pursuant to § 923.12. The priorities will be based upon an analysis of State and local needs as well as the effect of the uses on the area. Uses of lowest priority will be specifically stated for each type of area.

(b) *Comment.* Statutory citation: Section 305(b)(5).

Such management program shall include . . . broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority.

As pointed out in 15 CFR 920.15, the priority guidelines will set forth the degree of State interest in the preservation, conservation and orderly development of specific areas including at least those areas of particular concern identified in § 923.13 within the coastal zone, and thus provide the basis for regulating land and water uses in the coastal zone, as well as a common reference point for resolving conflicts. Such priority guidelines will be the core of a successful management program since they will provide a framework within which the State, its agencies, local governments and regional bodies can deal with specific proposals for development activities in various areas of the coastal zone. In order to develop such broad guidelines, the management program shall indicate that a method has been developed and applied for (1) analyzing State needs which can be met most effectively and efficiently through land and water uses in the coastal zone, and (2) determining the capability and suitability of meeting these needs in specific locations in the coastal zone. In analyzing the States' needs, there should be a determination made of those requirements and uses which have Statewide, as opposed to local, significance. Section 302(h) of the Act states in part that land and water use programs for the coastal zone should include "unified policies, criteria, standards, methods and processes for dealing with land and water use decisions of more than local significance." The inventory and analyses of coastal resources and uses called for in § 923.12 will provide the State with most of the basic data needed to determine the specific locations where coastal resources are capable and suitable for meeting State-

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wide needs. In addition, these analyses should permit the State to determine possible constraints on development which may be applied by particular uses. The program should establish special procedures for evaluating land use decisions, such as the siting of regional energy facilities, which may have a substantial impact on the environment. In such cases, the program should make provision for the consideration of available alternative sites which will serve the need with a minimum adverse impact. The identifying and ordering of use priorities in specific coastal areas should lead to the development and adoption of State policies or guidelines on land and water use in the coastal zone. Such policies or guidelines should be part of the management program as submitted by the State and should be consistent with the State's specified management program objectives. Particular attention should be given by the State to applying these guidelines on use priorities within those "areas of particular concern" designated pursuant to § 923.13. In addition, States shall indicate within the management program uses of lowest priority in particular areas, including guidelines associated with such uses.

§ 923.15 National interest in the siting of facilities.

(a) *Requirement.* A management program which integrates (through development of a body of information relating to the national interest involved in such siting through consultation with cognizant Federal and regional bodies, as well as adjacent and nearby States) the siting of facilities meeting requirements which are of greater than local concern into the determination of uses and areas of Statewide concern, will meet the requirements of Section 306(c)(8).

(b) *Comment.* Statutory citation: Section 306(c)(8).

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . the management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

This policy requirement is intended to assure that national concerns over facility siting are expressed and dealt with in the development and implementation of State coastal zone management programs. The requirement should not be construed as compelling the States to propose a program which accommodates certain types of facilities, but to assure that such national concerns are included at an early stage in the State's planning activities and that such facilities not be arbitrarily excluded or unreasonably restricted in the management program without good and sufficient reasons. It is recognized that there may or may not be a national interest associated with the siting of facilities necessary to meet requirements which are other than local in nature. Requirements which are other than local in nature shall be considered those requirements which, when fulfilled, result in the establishment of facilities designed clearly to serve more

than one locality (generally, the lowest unit of local, general-purpose government, excluding situations such as with cities and counties which exercise concurrent jurisdiction for the same geographic areas). In order to provide assistance to the States in completing this requirement, a listing is presented below which identifies those requirements which are both (1) other than local in nature, and (2) possess siting characteristics in which, in the opinion of the Secretary, there may be a clear national interest. For each such need, there is a listing of associated facilities. In addition, the principal cognizant Federal agencies concerned with these facilities are also listed. This list must not be considered inclusive, but the State should consider each requirement and facility type in the development of its management program. Consideration of these requirements and facilities need not be seen as a separate and distinct element of the management program, and the listing is provided to assure that the siting of such facilities is not overlooked or ignored. As part of its determination of permissible uses in the coastal zone (§ 923.12), as well as of priority of uses (§ 923.14), the State will have developed a procedure for inventorying coastal resources and identifying their existing or potential utilization for various purposes based upon capability, suitability and impact analyses. The process for responding to the requirements of Section 306(c)(8) should be identical to, and part of, the same procedure. No separate national interest "test" need be applied and submitted other than evidence that the listed national interest facilities have been considered in a manner similar to all other uses, and that appropriate consultation with the Federal agencies listed has been conducted. As a preliminary to adequate consideration of the national interest, the State must determine the needs for such facilities. Management programs must recognize the need of local as well as regional and national populations for goods and services which

can be supplied only through the use of facilities in the coastal zone in order to make reasonable provision for such facilities in light of the size and population of the State, the length and characteristics of its coast and the contribution such State is already making to regional and national needs. This will require the State to enter into discussions with appropriate Federal agencies and agencies of other States in the region, a process which should begin early in the development of the management program so that the full dimensions of the national interest may be considered as the State develops its program (§ 923.31 and § 923.32). The management program should make reference to the views of cognizant Federal agencies as to how these national needs may be met in the coastal zone of that particular State. States should actively seek such guidance from these Federal agencies, particularly in view of the fact that all management programs will be reviewed with the opportunity for full comment by all affected Federal agencies prior to approval. It is recognized that Federal agencies will differ markedly in their abilities to articulate policies regarding utilization of individual State's coastal zones. NOAA's Office of Coastal Zone Management will encourage Federal agencies to develop policy statements regarding their perception of the national interest in the coastal zone and make these available to the States. The States should also consult with adjacent and nearby States which share similar or common coastal resources or with regional interstate bodies to determine how regional needs may be met in siting facilities. Specific arrangements of "trade-offs" of coastal resource utilization should be documented with appropriate supporting evidence. The importance of this type of interstate consultation and cooperation in planning cannot be overemphasized for it offers the States the opportunity of resolving significant national problems on a regional scale without Federal intervention.

Requirements which are other than local in nature and in the siting of which there may be a clear national interest (with associated facilities and cognizant Federal agencies)

Requirements	Associated facilities	Cognizant Federal Agencies
1. Energy production and transmission.	Oil and gas wells; storage and distribution facilities; refineries; nuclear, conventional, and hydroelectric powerplants; deepwater ports.	Federal Energy Administration, Federal Power Commission, Bureau of Land Management, Atomic Energy Commission, Maritime Administration, Geological Survey, Department of Transportation, Corps of Engineers.
2. Recreation (of an interstate nature) . . .	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts; wildlife reserves.	National Park Service, Forest Service, Bureau of Outdoor Recreation.
3. Interstate transportation	Interstate highways, airports, aids to navigation; ports and harbors, railroads.	Federal Highway Administration, Federal Aviation Administration, Coast Guard, Corps of Engineers, Maritime Administration, Interstate Commerce Commission.
4. Production of food and fiber	Prime agricultural land and facilities; forests; mariculture facilities; fisheries.	Soil Conservation Service, Forest Service, Fish and Wildlife Service, National Marine Fisheries Service.
5. Preservation of life and property	Flood and storm protection facilities; disaster warning facilities.	Corps of Engineers, Federal Insurance Administration, NOAA, Soil Conservation Service.
6. National defense and aerospace	Military installations; defense manufacturing facilities; aerospace launching and tracking facilities.	Department of Defense, NASA.
7. Historic, cultural, esthetic and conservation values.	Historic sites; natural areas; areas of unique cultural significance; wildlife refuges; areas of species and habitat preservation.	National Register of Historic Places, National Park Service, Fish and Wildlife Service, National Marine Fisheries Service.
8. Mineral resources	Mineral extraction facilities needed to directly support activity.	Bureau of Mines, Geological Survey.

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§ 923.16 Area designation for preservation and restoration.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(c) (9), the management program must show evidence that the State has developed and applied standards and criteria for the designation of areas of conservation, recreational, ecological or esthetic values for the purpose of preserving and restoring them.

(b) *Comment.* Statutory citation: Section 306(c) (9):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . the management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreation, ecological or esthetic values.

(1) This requirement is closely linked to that contained in § 923.13, dealing with designation of areas of particular concern. Unless the State can make a compelling case to the contrary, all areas designated according to the methods called for in this part shall also be considered as areas of particular concern.

(2) This requirement is reasonably self-explanatory. The State must develop procedures for the designation of areas with certain characteristics. The State, in doing so, must:

(i) Establish standards and criteria for the possible designation of coastal areas intended for preservation or restoration because of their conservation, recreational, ecological or esthetic values, and

(ii) Apply those standards and criteria to the State's coastal resources. (In this, the inventory associated with the requirement of § 923.13 will be most helpful.)

(3) The requirement of the statute goes to the procedures rather than substance; the fact that a State may be unable to move rapidly ahead with a program of preservation or restoration will not prevent the program from being approved. The State should also rank in order of relative priority areas of its coastal zone which have been designated for the purposes set forth in this section. As funds become available, such a ranking will provide a set of priorities for selecting areas to be preserved or restored.

§ 923.17 Local regulations and uses of regional benefit.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(e) (2), the management program must show evidence that the State has developed and applied a method for determining uses of regional benefit, and that it has established a method for assuring that local land and water use controls in the coastal zone do not unreasonably or arbitrarily restrict or exclude those uses of regional benefit.

(b) *Comment.* Statutory citation: Section 306(e) (2):

Prior to granting approval, the Secretary shall also find that the program provides . . . for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or

exclude land and water uses of regional benefit.

This requirement is intended to prevent local land and water use decisions from arbitrarily excluding certain land and water uses which are deemed of importance to more than a single unit of local government. For the purposes of this requirement, a use of regional benefit will be one which provides services or other benefits to citizens of more than one unit of local, general-purpose government (excluding situations such as in cities and counties which exercise jurisdiction over the same geographic areas). In order to assure that arbitrary exclusion does not occur, the State must first identify those uses which it perceives will affect or produce some regional benefit. This designation would normally be derived from the inventory and analysis of the uses contained in § 923.13. In any event, however, these uses should include those contained in the table of § 923.15. In addition, the State may determine that certain land and water uses may be of regional benefit under certain sets of circumstances; the State should then establish standards and criteria for determining when such conditions exist. There should be no blanket exclusion or restrictions of these uses in areas of the coastal zone by local regulation unless it can be shown that the exclusion or restriction is based upon reasonable considerations of the suitability of the area for the uses or the carrying capacity of the area. The requirement of this section does not exclude the possibility that in specific areas certain uses of regional benefit may be prohibited. However, such exclusions may not be capricious. The method by which the management program will assure that such unreasonable restrictions or exclusion not occur in local land and water use decisions will, of course, be up to the State, but it should include the preparation of standards and criteria relating to State interpretation of "unreasonable restriction or exclusion", as well as the establishment of a continuing mechanisms for such determination.

Subpart C—Authorities and Organization**§ 923.20 General.**

This subpart deals with requirements that the State possess necessary authorities to control land and water uses and that it be organized to implement the management. It should be emphasized that before final approval of a coastal zone management program can be given by the Secretary of Commerce, the authorities and organizational structure called for in the management program must be in place. Preliminary approval, however, can be given to a proposal which will require subsequent legislative or executive action for implementation and eligibility for administrative grants under Section 306.

§ 923.21 Means of exerting State control over land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in Sections 305(b) (4) and 306(c) (7), the management program must show evidence that

the State has identified a means for controlling each permissible land and water use specified in § 923.12, and for precluding land and water uses in the coastal zone which are not permissible. The management program should contain a list of relevant constitutional provisions, legislative enactments, regulations, judicial decisions and other appropriate official documents or actions which establish the legal basis for such controls, as well as documentation by the Governor or his designated legal officer that the State actually has and is prepared to implement the authorities, including those contained in Section 306(d), required to implement the objectives, policies and individual components of the program.

(b) *Comment.* Statutory citation: Section 305(b) (4):

Such management program shall include . . . an identification of the means by which the State proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions;

Statutory citation: Section 306(c) (7):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . the State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

Useful information concerning this requirement appears in 15 CFR 920.14, which is incorporated into this part by reference. The key words in this requirement are, "to exert control over the land and water uses." This reflects the Congressional finding that the "key to more effective protection and use of the land and water resources of the coastal zone is to encourage the States to exercise their full authority over the lands and waters in the coastal zone . . ." It is not the intent of this part to specify for the States the "means" of control; this is a State responsibility. The State must, however, describe in the management program its rationale for developing and deciding upon such "means." The "means" must be capable of actually implementing the objectives, policies and individual components of the management program. As such, requirements shall be reviewed in close conjunction with § 923.24, 923.25 and § 923.26, relating to actual authorities which the State must possess. The management program should also indicate those specific land and water uses over which authority, jurisdiction or control will be exercised concurrently by both State and Federal agencies, particularly those uses affecting water resources, submerged lands and navigable waters. The management program must provide for control of land and water uses in the coastal zone, although the exercise of control may be vested in, or delegated to, various agencies or local government. As part of the approval of a management program, the Secretary must find that the means for controlling land and water uses identified in § 923.21 are established and in place, and that the means include the

authorities contained in § 923.24 and § 923.25. This finding will be based upon documentation by the Governor of the coastal State or his designated legal officer that the State possesses and is prepared to implement the requisite authorities.

§ 923.22 Organizational structure to implement the management program.

(a) *Requirement.* In order to fulfill the requirement contained in Section 305(b)(6), the management program must contain a description of how the State is organized to implement the authorities identified in § 923.21. In addition, the management program must contain a certification by the Governor of the State or his designated legal officer that the State has established its organizational structure to implement the management program.

(b) *Comment.* Statutory citation: Section 305(b)(6):

Such management program shall include . . . a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional and interstate agencies in the management process.

Statutory citation: Section 306(c)(6):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . the State is organized to implement the management program required under paragraph (1) of this subsection.

Useful background information and guidance concerning this requirement appears in 15 CFR 920.16, which is incorporated into this part by reference. The legislative history of the Act makes it clear that the States should be accorded maximum flexibility in organizing for implementation of their coastal zone management programs. Thus, neither the Act nor this part provide an organizational model which must be followed. While individual State programs may have a wide range of interstate, State, local or areawide agency roles to play, the program will be reviewed closely for assurance that it constitutes an organized and unified program. Consistent with this principle, there must be a clear point of responsibility for the program, although program implementation may be undertaken by several State entities. In those cases, where a complex interagency and intergovernmental process is established, the State must submit a description of roles and responsibilities of each of the participants and how such roles and responsibilities contribute to a unified coastal zone management program. This description should be sufficiently detailed to demonstrate that a coherent program structure has been proposed by the State and the State is prepared to act in accordance with the objectives of the management program. Although the Act does not prescribe the creation of a central management agency at the State level, it envisions the creation of a coastal zone management entity that has adequate legislative and/or executive authority to implement the policies and requirements mandated in

the Act. Review of the management program for compliance with this requirement will be undertaken as a single review with review of the requirements contained in § 923.31, full participation by interested bodies in adoption of management programs, and § 923.23, designation of a single State agency.

§ 923.23 Designation of a single agency.

(a) *Requirement.* In order to fulfill the requirement of Section 306(c)(5), the management program must contain appropriate documentation that the Governor of the coastal State has designated a single agency to be responsible for receiving and administering grants under Section 306 for implementing an approved management program.

(b) *Comment.* Statutory citation: Section 306(c)(5):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . the Governor of the State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

This requirement is closely related to that contained in § 923.22, relating to a description of the organizational structure which will implement the management program. While this requirement is self-explanatory, it should be pointed out that States will undoubtedly come forward with a wide variety of organizational structures to implement approved management programs. Some will probably be quite complex, utilizing a variety of control techniques at a number of governmental levels. Nothing in this part should be construed as limiting the options available to a State for implementing its program. The purpose of the requirement is simply to identify a single agency which will be fiscally and programmatically responsible for receiving and administering the grants under Section 306 to implement the approved management program.

§ 923.24 Authorities to administer land and water uses, control development and resolve conflicts.

(a) *Requirement.* (1) The management program must contain documentation by the Governor or his designated legal officer that the agencies and governments chosen by the State to administer the management program have the authority to administer land and water regulations, control development in accordance with the management program and to resolve use conflicts.

(b) *Comment.* Statutory citation: Section 306(d)(1):

Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power . . . to administer land and water use regulations, control development in order to ensure compliance with the management program

and to resolve conflicts among competing uses . . .

This requirement shall be reviewed in close conjunction with that of §§ 923.21, 923.25 and § 923.26, dealing with authorities which the State's organizational structure must possess in order to ensure implementation of the management program. The language of this requirement makes it clear that the State may choose to administer its program using a variety of levels of governments and agencies, but that if it does, the State must have available to it the authorities specified.

§ 923.25 Authorities for property acquisition.

(a) *Requirement.* The management program shall contain documentation by the Governor or his designated legal officer that the agency or agencies, including local governments, areawide agencies, regional or interstate agencies, responsible for implementation of the management program have available the power to acquire fee simple and less than fee simple interests in lands, waters and other property through condemnation or other means where necessary to achieve conformance with the management program. Where the power includes condemnation, the State shall so indicate. Where the power includes other means, the State shall specifically identify such means.

(b) *Comment.* Statutory citation: Section 306(d)(2):

Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power . . . to acquire fee simple and less than fee simple interests in lands, waters and other property through condemnation or other means when necessary to achieve conformance with the management program . . .

In most cases, it will not be necessary to acquire fee simple ownership. Normally, appropriate use restrictions will be adequate to achieve conformance with the program. In other cases, an easement may be necessary to achieve conformance with the management program. Where acquisition is necessary, this section contemplates acquisition by condemnation or through other means. However, the mere authority to acquire an interest in lands or waters by purchase from a willing vendor will not be sufficient in cases where the acquisition of interests in real property is a necessary and integral part of the program. In such cases, the power of condemnation need be no broader than necessary to achieve conformance with the program. For example, if a State's program includes provisions expressly requiring that power transmission lines and pipelines be located in specified energy and transportation corridors to minimize environmental impact, and for State ac-

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quisition of such transportation corridors, then the State should have the power to acquire corridors for such purposes through condemnation. It is not necessary that the power to acquire real property be held by any one particular agency involved in implementing the management program. The authority must, however, be held by one or more agencies or local governments with a statutory responsibility to exercise the authority without undue delay when necessary to achieve conformance with the management program.

§ 923.26 Techniques for control of land and water uses.

(a) *Requirement.* The management program must contain documentation by the Governor or his designated legal officer that all existing, projected and potential land and water uses within the coastal zone may be controlled by any one or a combination of the techniques specified in Section 306(e) (1).

(b) *Comment.* Statutory citation: Section 306(e) (1):

Prior to granting approval, the Secretary shall also find that the program provides . . . for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(1) Section 306(e) (1) (A) "State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance." This option requires the State to establish general criteria and standards within the framework of the coastal zone program for implementation by local government. Such criteria and standards would provide for application of criteria and standards to specific local conditions. Implementation by a local unit of government would consist of adoption of a suitable local zoning ordinance or regulation, and enforcement on a continuing basis. Administrative review at the State level requires provision for review of local ordinances and regulations and local enforcement activity for consistency with the criteria and standards as well as programs, not review of specific cases on the merits. In the event of deficiencies either in regulation or local enforcement, State enforcement of compliance would require either appropriate changes in local regulation or enforcement or direct State intervention.

(2) Section 306(e) (1) (B) "Direct State land and water use planning and regulation." Under this option the State would become directly involved in the establishment of detailed land and water use regulations and would apply these regulations to individual cases. Initial determinations regarding land and water use in the coastal zone would be made at the State level. This option preempts the traditional role of local government in the zoning process involving lands or waters within the coastal zone.

(3) Section 306(e) (1) (C) "State administrative review for consistency with the management program of all develop-

ment plans, projects, or land and water regulations, including exceptions and variances thereto proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings." This option leaves the local unit of government free to adopt zoning ordinances or regulations without State criteria and standards other than the program itself, but subjects certain actions by the local unit of government to automatic State review, including public notice and a hearing when requested by a party. Such actions include:

(i) Adoption of land and water use regulations, ordinarily in the form of a zoning ordinance or regulation.

(ii) Granting of an exception or variance to a zoning ordinance or regulation.

(iii) Approval of a development plan or project proposed by a private developer. This may be defined to exclude approval of minor projects, such as small residences or commercial establishments, or those which do not have a significant impact.

(4) It should be noted that State review is for consistency with the management program, not of the merits or of the facts on which the local decision is based.

(5) The State may choose to utilize only one of the specified techniques, or more than one, or a combination of them in different locations or at different times. Within the parameters set forth in the requirement, there is a large variety of tools which the management program could adopt for controlling land and water uses. The program should identify the techniques for control of land and water uses which it intends to use for existing, projected and potential uses within the coastal zone. This requirement will be reviewed in close conjunction with those contained in §§ 923.21, 923.24 and 923.25, dealing with State authorities to implement the management program.

Subpart D—Coordination

§ 923.30 General.

One of the most critical aspects of the development of State coastal zone management programs will be the ability of the States to deal fully with the network of public, quasi-public and private bodies which can assist in the development process and which may be significantly impacted by the implementation of the program. Each State will have to develop its own methods for accommodating, as appropriate, the varying, often conflicting interests of local governments, water and air pollution control agencies, regional agencies, other State agencies and bodies, interstate organizations, commissions and compacts, the Federal government and interested private bodies. It is the intent of these requirements for coordination with governmental and private bodies to assure that the State, in developing its management program, is aware of the full array of interests represented by such organizations, that opportunity for participation was provided, and that adequate con-

sultation and cooperation with such bodies has taken place and will continue in the future.

§ 923.31 Full participation by relevant bodies in the adoption of management programs.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c) (1), the management program must show evidence that:

(1) The management program has been formally adopted in accordance with State law or, in its absence, administrative regulations;

(2) The State has notified and provided an opportunity for full participation in the development of its management program to all public and private agencies and organizations which are liable to be affected by, or may have a direct interest in, the management program. The submission of the management program shall be accompanied by a list identifying the agencies and organizations referred to in paragraph (a) (2) of this section, the nature of their interest, and the opportunities afforded such agencies and organizations to participate in the development of the management program. These organizations should include those identified pursuant to § 923.32, which have developed local, areawide or interstate plans applicable to an area within the coastal zone of the State as of January 1 of the year in which the management program is submitted for approval; and

(3) The management program will carry out the policies enumerated in section 303 of the Act.

(b) *Comment.* Statutory citation: Section 306(c) (1):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . (1) the State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

This requirement embodies the actual approval by the Secretary of Commerce of a State's coastal zone management program pursuant to all of the terms of the Act, plus associated administrative rules and regulations. As the operative section, it subsumes all of the requirements included in this part, which shall be considered the "rules and regulations promulgated by the Secretary" mentioned in section 306(c) (1). The citation, however, also includes some specific additional requirements, for which guidance and performance criteria are necessary. These additional requirements include:

(1) Adoption of the management program by the State. The management program must demonstrate that it represents the official policy and objectives of the State. In general, this will require

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documentation in the management program that the State management entity has formally adopted the management program in accordance with either the rules and procedures established by statute, or in the absence of such law, administrative regulations.

(2) Opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private. A major thrust of the Act is its concern for full participation and cooperation in the development and implementation of management programs by all interested and affected agencies, organizations and individuals. This is specifically included in the statement of national policy in section 303(c). The State must provide evidence that the listed agencies and parties were, in fact, provided with an opportunity for full participation. It will be left to the States to determine the method and form of such evidence, but it should contain at a minimum:

(i) A listing, as comprehensive as possible, of all Federal and State agencies, local governments, regional organizations, port authorities and public and private organizations which are likely to be affected by, or have a direct interest in, the development and implementation of a management program (including those identified in § 923.32), and

(ii) A listing of the specific interests of such organizations in the development of the management program, as well as an identification of the efforts made to involve such bodies in the development process.

(a) "Opportunity for full participation" is interpreted as requiring participation at all appropriate stages of management program development. The assistance which can be provided by these public and private organizations can often be significant, and therefore contact with them should be viewed not only as a requirement for approval, but as an opportunity for tapping available sources of information for program development. Early and continuing contact with these agencies and organizations is both desirable and necessary. In many cases it may be difficult or impossible to identify all interested parties early in the development of the State's program. However, the public hearing requirement of § 923.41 should afford an opportunity to participate to interested persons and organizations whose interest was not initially noted.

(3) Consistency with the policy declared in section 303 of the Act. In order to facilitate this review, the State's management program must indicate specifically how the program will carry out the policies enumerated in section 303.

§ 923.32 Consultation and coordination with other planning.

(a) *Requirement.* In order to fulfill the requirements contained in section 306(c) (2), the management program must include:

(1) An identification of those entities mentioned which have plans in effect on January 1 of the year submitted,

(2) A listing of the specific contacts made with all such entities in order to coordinate the management program with their plans,

(3) An identification of the conflicts with those plans which have not been resolved through coordination, and continuing actions contemplated to attempt to resolve them, and

(4) Indication that a regular consultative mechanism has been established and is active, to undertake coordination between the single State agency designated pursuant to § 923.23, and the entities in paragraph (B) of Section 306(c) (2).

(b) *Comment.* Statutory citation: Section 306(c) (2):

"Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find . . . that the State has:

(A) Coordinated its program with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) Established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title."

Relevant background information on this requirement appears in 15 CFR 920.45(f), and is incorporated by reference herein. While the State will exercise its authority over land and water uses of Statewide significance in the coastal zone by one or more of the techniques set forth in § 923.28, the State management program must be coordinated with existing plans applicable to portions of the coastal zone. It should be noted that this section does not demand compliance of the State program with local plans, but the process envisioned should enable a State not only to avoid conflicts and ambiguities among plans and proposals, but to draw upon the planning capabilities of a wide variety of governments and agencies. Coordination implies a high degree of cooperation and consultation among agencies, as well as a mutual willingness on the part of the participants to accommodate their activities to the needs of the others in order to carry out the public interest. Perceptions of the public good will differ and it is recognized that not all real or potential conflicts can be resolved by this process. Nevertheless, it is a necessary step. Effective cooperation and consultation must continue as the management program is put into operation so that local governments, interstate, regional and areawide agencies can continue to participate in the carrying out of the management program. The "plans" referred to in (A) shall be considered those which have been officially adopted by the entity which developed

them, or which are commonly recognized by the entity as a guide for action. The list of relevant agencies required under § 923.31 will be of use in meeting this requirement. It will enable the State to identify those entities mentioned in (A) which have such plans and to provide evidence that coordination with them has taken place. The process envisioned should not only enable a State to avoid conflicts between its program and other plans applying within its coastal zone, but to draw upon the planning capabilities of a wide variety of local governments and other agencies. In developing and implementing those portions of the program dealing with power transmission lines, pipelines, interstate transportation facilities and other facilities which will significantly impact on neighboring States of a region, particular attention should be paid to the requirements of this section.

Subpart E—Miscellaneous

§ 923.40 General.

The requirements in this subpart do not fall readily into any of the above categories but deal with several important elements of an approvable management program. They deal with public hearings in development of the management program, gubernatorial review and approval, segmentation of State programs and applicability of water and air pollution control requirements.

§ 923.41 Public hearings.

(a) *Requirements.* In order to fulfill the requirement contained in section 306(c) (3), the management program must show evidence that the State has held public hearings during the development of the management program following not less than 30 days notification, that all documents associated with the hearings are conveniently available to the public for review and study at least 30 days prior to the hearing, that the hearings are held in places and at times convenient to affected populations, that all citizens of the State have an opportunity to comment on the total management program and that a report on each hearing be prepared and made available to the public within 45 days.

(b) *Comment.* Statutory citation: Section 306(c) (3):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that . . . (1) the State has held public hearings on the development of the management program.

Extensive discussion and statements of policy regarding this requirement appears in §§ 920.30, 920.31 and 920.32, which is incorporated herein by reference.

§ 923.42 Gubernatorial review and approval.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c) (4), the management program must contain a certification signed by the Governor of the coastal State to the effect that he has reviewed and approved the management program and any amendments thereto. Certification may be omitted in

the case of a program submitted for preliminary approval.

(b) *Comment.* Statutory citation: Section 306(c)(4):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that the management program and any changes thereto have been reviewed and approved by the Governor.

This requirement is self-explanatory.

§ 923.43 Segmentation.

(a) *Requirement.* If the State intends to develop and adopt its management program in two or more segments, it shall advise the Secretary as early as practicable stating the reasons why segmentation is appropriate and requesting his approval. Each segment of a management program developed by segments must show evidence (1) that the State will exercise policy control over each of the segmented management programs prior to, and following their integration into a complete State management program, such evidence to include completion of the requirements of § 923.11 (Boundaries of the coastal zone) and § 923.15 (National interest in the siting of facilities) for the State's entire coastal zone, (2) that the segment submitted for approval includes a geographic area on both sides of the coastal land-water interface, and (3) that a timetable and budget have been established for the timely completion of the remaining segments or segment.

(b) *Comment.* Statutory citation: Section 306(h):

At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That, the State adequately provides for the ultimate coordination of the various segments of the management program into a single, unified program, and that the unified program will be completed as soon as reasonably practicable.

(1) This section of the Act reflects a recognition that it may be desirable for a State to develop and adopt its management program in segments rather than all at once because of a relatively long coastline, developmental pressures or public support in specific areas, or earlier regional management programs developed and adopted. It is important to note, however, that the ultimate objective of segmentation is completion of a management program for the coastal zone of the entire State in a timely fashion. Segmentation is at the State's option, but requires the approval of the Secretary. States should notify the Secretary at as early a date as possible regarding intention to prepare a management program in segments.

(2) Continuing involvement at the State as well as local level in the development and implementation of segmented programs is essential. This emphasis on State participation and coordination with the program as a whole should be reflected in the individual seg-

ments of a management program. Regional agencies and local governments may play a large role in developing and carrying out such segmented programs, but there must be a continuing State voice throughout this process. This State involvement shall be expressed in the first segment of the management program in the form of evidence that (1) the boundaries of the coastal zone for the entire State have been defined (pursuant to § 923.11) and (2) there has been adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature (pursuant to § 923.15) for the State's entire coastal zone. These requirements are designed to assure that the development of a Statewide coastal zone management program proceeds in an orderly fashion and that segmented programs reflect accurately the needs and capabilities of the State's entire coastal zone which are represented in that particular segment.

(3) The Act's intent of encouraging and assisting State governments to develop a comprehensive program for the control of land and water uses in the coastal zone is clear. This intent should therefore apply to segments as well, and segmented management programs should be comprehensive in nature and deal with the relationship between and among land and water uses. No absolute minimum or maximum geographic size limitations will be established for the area of coverage of a segment. On the one hand, segments should include an area large enough to permit comprehensive analyses of the attributes and limitations of coastal resources within the segment of State needs for the utilization or protection of these resources and of the interrelationships of such utilizations. On the other hand, it is not contemplated that a segmented management program will be developed solely for the purpose of protecting or controlling a single coastal resource or use, however desirable that may be.

(4) One of the distinguishing features of a coastal zone management program is its recognition of the relationship between land uses and their effect upon coastal waters, and vice versa. Segments should likewise recognize this relationship between land and water by including at least the dividing line between them, plus the lands or waters on either side which are mutually affected. In the case of a segment which is predominantly land, the boundaries shall include those waters which are directly and significantly impacted by land uses in the segment. Where the predominant part of the segment is water, the boundaries shall include the adjacent shorelands strongly influenced by the waters, including at least transitional and inter-tidal areas, salt marshes, wetlands and beaches (or similar such areas in Great Lake States).

(5) Segmented management programs submitted for approval will be reviewed and approved in exactly the same manner as programs for complete coastal zones, utilizing the same approval criteria, plus those of this section.

§ 923.44 Applicability of air and water pollution control requirements.

(a) *Requirement.* In order to fulfill the requirements contained in Section 307(f) of the Act the management program must be developed in close coordination with the planning and regulatory systems being implemented under the Federal Water Pollution Control Act and Clean Air Act, as amended, and be consistent with applicable State or Federal water and air pollution control standards in the coastal zone. Documentation by the official or officials responsible for State implementation of air and water pollution control activities that those requirements have been incorporated into the body of the coastal zone management program should accompany submission of the management program.

(b) *Comment.* Statutory citation: Section 307(f):

Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal government, or any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title, and shall be the water pollution control requirements and air pollution control requirements applicable to such program.

(1) The basic purpose of this requirement is to ensure that the management program does not conflict with the national and State policies, plans and regulations mandated by the Federal Water Pollution Control Act, as amended, and the Clean Air Act as amended. The policies and standards adopted pursuant to these Acts should be considered essential baselines against which the overall management program is developed. This is a specific statutory requirement that reflects the overall coastal zone management objective of unified state management of environmental laws, regulations and applicable standards. To this end, management programs should provide for continuing coordination and cooperation with air and water programs during subsequent administration of the approved management program.

(2) There are also significant opportunities for developing working relationships between air and water quality agencies and coastal zone management programs. These opportunities include such activities as joint development of Section 208 areawide waste treatment management planning and coastal zone management programs; consolidation and/or incorporation of various planning and regulatory elements into these closely related programs; coordination of monitoring and evaluation activities; increased management attention being accorded specifically to the coastal waters; consultation concerning the desirability of adjusting state water quality standards and criteria to complement coastal zone management policies; and designation of areas of particular concern or priority uses.

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RULES AND REGULATIONS

Subpart F—Applications for Administrative Grants

§ 923.50 General.

The primary purpose of administrative grants made under section 306 of the Act is to assist the States to implement coastal zone management programs following their approval by the Secretary of Commerce. The purpose of these guidelines is to define clearly the processes by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." This Manual contains procedures and guidelines for the administration of all grants covered under the Coastal Zone Management Act of 1972. It has been designed as a tool for grantees, although it addresses the responsibilities of the National Oceanic and Atmospheric Administration and its Office of Coastal Zone Management, which is responsible for administering programs under the Act. The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for grantees to use in submitting a grant application. Inclusion of recommended policies and procedures for grantees does not limit the choice of grantees in selecting those most useful and applicable to local requirements and conditions.

§ 923.51 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972 to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration (NOAA) as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

Director, Office of Coastal Zone Management
(OCZM)
National Oceanic and Atmospheric Administration,
U.S. Department of Commerce
Rockville, Maryland 20852

§ 923.52 State responsibility.

(a) The application shall contain a designation by the Governor of a coastal State of a single agency to receive and have fiscal and programmatic responsibility for administering grants to implement the approved management program.

(b) A single State application will cover all program management elements, whether carried out by State agencies, areawide/regional agencies, local governments, interstate or other entities.

§ 923.53 Allocation.

Section 306(f) allows a State to allocate a portion of its administrative grant to sub-State or multi-State entities if the work to result from the allocation contributes to the effective implementation of the State's approved coastal zone management program. The requirements for identifying such allocations are set forth in § 923.55(e).

§ 923.54 Geographical segmentation.

Authority is provided in the Act for a State's management program to be developed and adopted in segments. Additional criteria for the approval of a segmented management program are set forth in Subpart E § 923.43. Application procedures for an administrative grant to assist in administering an approved segmented management program will be the same as set forth in this subpart for applications to administer an approved management program for the entire coastal zone of a State.

§ 923.55 Application for the initial administrative grant.

(a) The Form CD-288, Preapplication for Federal Assistance, required only for the initial grant, must be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant. Copies of the approved management program are not required. The preapplication form may be submitted prior to the Secretary's approval of the applicant's management program provided, after consultation with OCZM, approval is anticipated within 60 days of submittal of the preapplication.

(b) All applications are subject to the provisions of OMB Circular A-95 (revised). The Form CD-288, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to the Office of Coastal Zone Management (OCZM). If the application is determined to be Statewide or broader in nature, a statement to that effect shall be attached to the Preapplication form submitted to OCZM. Such a determination does not preclude the State clearinghouse from involving areawide clearinghouses in the review. In any event, whether the application is considered to be Statewide or not, the Preapplication form shall include an attachment indicating the date copies of the Preapplication form were transmitted to the State clearinghouse and if applicable, the identity of the areawide clearinghouse(s) receiving copies of the Preapplication form and the date(s) transmitted. The Preapplication form may be used to meet the project notification and review requirements of OMB Circular A-95 with the concurrence of the appropriate clearinghouses. In the absence of such concurrence the project notification and review procedures, established State and areawide clearinghouses, should be implemented simul-

taneously with the distribution of the preapplication form.

(c) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. The allowability of costs will be determined in accordance with the provisions of FMC 74-4. Administrative grants made under section 306(a) of the Act are clearly intended to assist the States in administering their approved management programs. Such intent precludes tasks and related costs for long range research and studies. Nevertheless it is recognized that the coastal zone and its management is a dynamic and evolving process wherein experience may reveal the need for specially focused, short-term studies, leading to improved management processes and techniques. The OCZM will consider such tasks and their costs, based upon demonstrated need and expected contribution to more effective management programs.

(d) The Form CD-292, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. The OCZM will not accept applications substantially deficient in adherence to A-95 requirements.

(e) The State's work program implementing the approved management program is to be set forth in Part IV, Program Narrative, of the Form CD-292 and must describe the work to be accomplished during the grant period. The work program should include:

(1) An identification of those elements of the approved management program that are to be supported all or in part by the grant and the matching share, hereinafter called the grant project. In any event, activities related to the establishment and implementation of State responsibilities pursuant to Section 307(c)(3) and Section 307(d) of the Act, are to be included in the grant project.

(2) A precise statement of the major tasks required to implement each element.

(3) For each task, the following should be specified:

(i) A concise statement of how each task will accomplish all or part of the program element to which it is related. Identify any other State, areawide, regional or interstate agencies or local governments that will be allocated responsibility for carrying out all or portions of the task. Indicate the estimated cost of the subcontract/grant for each allocation.

(ii) For each task indicate the estimated total cost. Also indicate the estimated total man-months, if any, allocated to the task from the applicant's in-house staff.

(iii) For each task, list the estimated cost using the object class categories 6.a. through k., Part III, Section B—Budget Categories of Form CD-292.

(4) The sum of all the task costs in sub-paragraph (3) of this paragraph should equal the total estimated grant project costs.

(5) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's in-house staff, that will be assigned to the grant project. Additionally indicate the number assigned full time and the number assigned less than full time in the two categories.

(6) An identification of those management program elements, if any, that will not be supported by the grant project, and how they will be implemented.

§ 923.56 Approval of applications.

(a) The application for an administrative grant of any coastal State with a management program approved by the Secretary of Commerce, which complies with the policies and requirements of the Act and these guidelines, shall be approved by OCZM, assuming available funding.

(b) Should an application be found deficient, OCZM will notify the applicant in writing, setting forth in detail the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) OCZM may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

§ 923.57 Amendments.

Amendments to an approved application must be submitted to, and approved by, the Secretary prior to initiation of the change contemplated. Requests for substantial changes should be discussed with OCZM well in advance. It is recognized that, while all amendments must be approved by OCZM, most such requests will be relatively minor in scope; therefore, approval may be presumed for minor amendments if the State has not been notified of objections within 30 working days of date of postmark of the request.

§ 923.58 Applications for second and subsequent year grants.

(a) Second and subsequent year applications will follow the procedures set forth in this subpart, with the following exceptions:

(1) The preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 923.55 (b) will be followed and the preapplication is to be submitted 120 days prior to the beginning date of the requested grant. If the preapplication form is not used, the A-95 project notification and review procedures established by State and area-wide clearinghouses should be followed.

(2) The application must contain a statement by the Governor of the coastal State or his designee that the management program as approved earlier by the

Secretary of Commerce, with any approved amendments, is operative and has not been materially altered. This statement will provide the basis for an annual OCZM certification that the approved management program remains in effect, thus fulfilling, in part, the requirements of section 309(a) for a continuing review of management programs.

(3) The Governor's document designating the applicant agency is not required, unless there has been a change of designation.

(4) Copies of the approved management program or approved amendments thereto are not required.

[FR Doc. 75-735 Filed 1-8-75; 8:45 am]

opment of a management program for the land and water resources of its coastal zone. Such grants shall not exceed 66 2/3 percent of the costs of the program in any one year and no State shall be eligible to receive more than three annual grants under section 305. In addition, no grant may be made under this section in excess of 10 percent nor less than 1 percent of the total amount appropriated under this section.

Section 305(e) of the Act states in part:

Grants under this section shall be allocated to the States based upon rules and regulations promulgated by the Secretary * * *

The rules and regulations set forth below establish the policy and means of allocating grant funds under section 305 to the coastal States and are intended to fulfill the above requirements of section 305(e). Such rules and regulations are intended primarily for allocation of funds made available for grants under Section 305 in Fiscal Year 1974. Allocations to States in subsequent fiscal years may reflect changes in these rules and regulations; such changes, if made, will be duly published.

THEODORE P. GLEITER,
*Assistant Administrator for
Administration.*

- Sec.
923.1 Purpose of rules and regulations.
923.2 Definitions.
923.3 Basis of allocation.
923.4 Allocation of non-distributed funds.
923.5 State allocation computation example.
923.6 State allocation.
923.7 Duration of allocation.

§ 923.1 Purpose of rules and regulations.

Twelve million dollars has been appropriated by the Congress for Fiscal Year 1974 to implement the Coastal Zone Management Act of 1972 (P.L. 92-583). Of this amount, \$7.2 million has been made available for coastal zone management program development grants-in-aid to the 34 coastal States and territories under section 305 of that Act. It is the purpose of this part to establish the rules and regulations for allocation of grant-in-aid funds under section 305 of the Coastal Zone Management Act of 1972 (Public Law 92-583; 86 Stat. 1280) pursuant to the requirements of section 305(e) which states:

Grants under this section shall be allocated to the States based on rules and regulations promulgated by the Secretary: *Provided, however,* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

§ 923.2 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

Title 15—Commerce and Foreign Trade
CHAPTER IX—NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION, DE-
PARTMENT OF COMMERCE

PART 923—COASTAL ZONE MANAGE-
MENT PROGRAM DEVELOPMENT
GRANTS, ALLOCATION OF FUNDS TO
STATES

Notice is hereby given of the establishment of rules and regulations regarding allocation of coastal zone program development grants to State governments pursuant to section 305(e) of the Coastal Zone Management Act of 1972 (Public Law 92-583; 86 Stat. 1280).

Under section 305 of the Act, the Secretary of Commerce is authorized to make annual grants to any coastal State for the purpose of assisting in the devel-

* Exhibits A-J are filed as part of the original document.

RULES AND REGULATIONS

12000

(a) The term "Act" means the Coastal Zone Management Act of 1972, Public Law 92-583, 86 Stat. 1280.

(b) "Secretary" means the Secretary of Commerce or his designee.

(c) "Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes specifically Puerto Rico, the Virgin Islands, Guam and American Samoa. This definition is interpreted as including the following States and territories:

- | | |
|-------------------|--------------------|
| 1. Alabama | 18. Minnesota |
| 2. Alaska | 19. Mississippi |
| 3. American Samoa | 20. New Hampshire |
| 4. California | 21. New Jersey |
| 5. Connecticut | 22. New York |
| 6. Delaware | 23. North Carolina |
| 7. Florida | 24. Ohio |
| 8. Georgia | 25. Oregon |
| 9. Guam | 26. Pennsylvania |
| 10. Hawaii | 27. Puerto Rico |
| 11. Illinois | 28. Rhode Island |
| 12. Indiana | 29. South Carolina |
| 13. Louisiana | 30. Texas |
| 14. Maine | 31. Virginia |
| 15. Maryland | 32. Virgin Islands |
| 16. Massachusetts | 33. Washington |
| 17. Michigan | 34. Wisconsin |

(d) "Shoreline" means, in tidal waters, the length of "tidal shoreline" as defined by the National Ocean Survey, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, and published in that agency's brochure, "The Coastline of the United States." For purposes of computation of the nation's total "tidal shoreline", figures for the Canal Zone, Navassa, Swan Islands, and Baker, Howland, Jarvis, Johnston, Midway, Palmyra, and Wake Islands shall not be included. "Shoreline", in Great Lakes States, shall mean the length of shoreline as established by the Lake Survey Center, National Ocean Survey, NOAA, U.S. Department of Commerce, and contained in an unpublished manuscript entitled, "Shoreline of the Great Lakes and Connecting Rivers" by Robert Hagen and P. H. Judd, dated 1948, with additions made in 1952 by G. E. Ropes and E. F. Kulp, Jr. The total "shoreline" of the United States shall be the sum of the tidal shoreline and Great Lakes shoreline, as defined above.

(e) "Coastal counties" means those counties or parishes which appear, in the judgment of the Director, Office of Coastal Environment, NOAA, to abut upon coastal waters. A listing of such counties is available for inspection at the Office of Coastal Environment, NOAA, U.S. Department of Commerce, Rockville, Maryland 20852.

§ 923.3 Basis of allocation.

(a) Funds available under section 305 will be allotted to the 34 coastal States and territories on the following basis:

(1) *Uniform allocation.* Each State will initially be allotted the legal minimum of 1 percent of funds available, regardless of size, length of coastline, population, or other factors.

(2) *Variable allocation.* The amount

remaining after allocation of the uniform amount will be allocated as follows:

(i) *Shoreline criterion.* Forty percent will be allocated to the coastal States and territories on the basis of shoreline. Each State or territory will receive a shoreline allotment equal to the total amount available under this criterion multiplied by a factor equal to the ratio of that State or territorial shoreline divided by the total national shoreline (including Great Lakes).

(ii) *Population criterion.* Forty percent will be allocated to the coastal States and territories on the basis of coastal population. It is the intent of the Office of Coastal Environment to include that population which is included within the "coastal zone" as defined in section 304 (a) of the Act and as used in the allocation system for grants under section 306 as described in section 306(b). However, since no State or territory has as yet formally identified its "coastal zone" pursuant to the Act, the Office will initially utilize the population of the coastal zone as recorded in the 1970 decennial U.S. Census contained within coastal counties (or parishes) as defined in § 923.3. Since this designation is judgmental, it is subject to change in subsequent fiscal years, based upon the inclusion or exclusion of certain counties, or upon definition of the coastal zone by a State.

(iii) *Needs criterion.* Twenty percent will be reserved for additional allocation to the coastal States and territories at the discretion of the Director, Office of Coastal Environment, based upon demonstration of need for such funds in order to assure completion of work designated by the State or territory as necessary to the timely completion of a coastal zone management program. Examples of such need may include, but need not be limited to:

(a) States or territories which have a legislative mandate, or express a strong desire to complete development of their programs in less than three years and specifically require such funds.

(b) States or territories which contain geographic coastal areas with particularly pressing developmental problems whose resolution in a management program would be materially assisted by additional funds.

(c) States or territories which propose particularly creative or innovative elements in the management program development phase where there is apparent national applicability.

(d) States or territories where special institutional conditions exist which require additional funds and for which adequate account is not made in the shoreline and/or population criteria.

(b) Coastal States and territories have been notified individually by mail of the minimum amount of funds that will be available to them for Fiscal Year 1974, in the event they:

(1) Choose to participate in the program.

(2) Can provide the necessary matching funds.

(3) Submit a satisfactory application and work program pursuant to the conditions set forth in 15 CFR Part 920, and

(4) Otherwise meet the applicable requirements of the Coastal Zone Management Act of 1972.

This minimum figure is the sum of the uniform allocation, and the shoreline and population criteria of the variable allocation only; it does not include any allocation under the needs criterion. States need not utilize nor be limited by the minimum amount allocated and applications may be made for any amount deemed appropriate, provided that the statutory maximum or minimum of 1 percent and 10 percent of all appropriations, respectively, is not exceeded.

§ 923.4 Allocation of non-distributed funds.

Those funds allocated to coastal States and territories which choose not to participate in the program, as well as those funds which are allocated but which States or territories choose not to utilize, will be added to those funds to be distributed to the States and territories on the basis of the needs criterion, as will any amounts in excess of the 10 percent maximum limitation.

§ 923.5 State allocation computation examples.

The following computation indicates the procedure by which a State's minimum allocation is derived. As an example, the State of Massachusetts was selected.

Basic information:

U.S. shoreline: 85,223 miles.
Massachusetts shoreline: 1,519 miles.
U.S. coastal population: 84,090,333.
Massachusetts coastal population: 2,858,518.

Total funds available for Sec. 305 grants in fiscal year 1974: \$7,200,000.

National allocation by criteria:

Uniform allocation: 1% × \$7,200,000 × 34 States = \$2,448,000

Variable allocation:

Shoreline criterion: 40% × (\$7,200,000 - 2,448,000) = 1,900,800

Population criterion: 40% × (\$7,200,000 - 2,448,000) = 1,900,800

Needs criterion: 20% × (\$7,200,000 - 2,448,000) = 950,400

Total = 7,200,000

State allocation (Massachusetts):

Uniform allocation: 1% × \$7,200,000 = \$72,000

Variable allocation:

Shoreline criterion: $\frac{1,519 \text{ miles}}{85,223 \text{ miles}} \times \$1,900,800 = 30,323$

Population criterion: $\frac{2,858,518}{84,090,333} \times \$1,900,800 = 64,627$

Massachusetts minimum allocation = \$166,950

To this minimum allocation may be added an appropriate amount from the needs criterion funds.

§ 923.6 State allocations.

Using the method described in § 923.5 above, minimum allocations (excluding needs criterion funds) for each eligible State and territory follow:

1. Alabama	892,719
2. Alaska (max.)	720,000
3. American Samoa	78,041
4. California	495,879
5. Connecticut	128,934
6. Delaware	91,958
7. Florida	382,082
8. Georgia	125,033
9. Guam	75,992
10. Hawaii	110,206
11. Illinois	205,007
12. Indiana	89,677
13. Louisiana	260,179
14. Maine	151,833
15. Maryland	187,589
16. Massachusetts	168,850
17. Michigan	246,683
18. Minnesota	81,124
19. Mississippi	84,545
20. New Hampshire	77,892
21. New Jersey	227,105
22. New York	441,896
23. North Carolina	150,833
24. Ohio	144,611
25. Oregon	126,553
26. Pennsylvania	138,338
27. Puerto Rico	147,462
28. Rhode Island	101,082
29. South Carolina	139,098
30. Texas	205,816
31. Virginia	168,470
32. Virgin Islands	76,752
33. Washington	189,489
34. Wisconsin	131,685

Subtotal 6,215,353
Needs criterion allocation 984,597

Total 7,200,000

¹ Figures may not be exact due to rounding.

² Includes \$34,197 excess over 10% limit in Alaska.

§ 923.7 Duration of allocation.

The allocations as determined and computed above are published for the distribution of coastal zone management program development grants during Fiscal Year 1974, which is the first year for which these funds are available. NOAA will monitor the progress of States under this program and make an assessment during Fiscal Year 1974 of the relative financial needs of the States. This assessment may lead to alterations in the method of allocation and the allocation figure for fiscal years subsequent to Fiscal Year 1974. Such revisions will be duly published.

[FR Doc. 74-7596 Filed 3-29-74; 11:05 am]

Title 15—Commerce and Foreign Trade**CHAPTER IX—NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION, DE-
PARTMENT OF COMMERCE****PART 922—MARINE SANCTUARIES**

The National Oceanic and Atmospheric Administration (NOAA) on March 19, 1974 (39 FR 10255), proposed guidelines pursuant to Title III of the Marine Protection Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1061) and the delegation of authority by the Secretary of Commerce dated March 13, 1974, authorizing the Administrator of NOAA to exercise the authority granted under the Title, for the purpose of setting forth the procedure by which areas may be nominated as marine sanctuaries and the concepts, policies, and procedures for the processing of nominations and the selection, designation and operation of a marine sanctuary.

Written comments were to be submitted to the Office of Coastal Environment, National Oceanic and Atmospheric Administration before May 1, 1974, and consideration has been given these comments.

The Title recognizes that certain areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, or other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, need to be preserved or restored for their conservation, recreational ecological or esthetic values.

The Secretary of Commerce (Administrator NOAA) after consultation with the Secretaries of State, Defense, the Interior, Transportation, the Administrator of the Environmental Protection Agency, other interested Federal Agencies, the State(s) involved and with the approval of the President, may designate a marine sanctuary.

Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any state, the Secretary (Administrator NOAA), shall consult with and give due consideration to the view of the responsible state officials involved. A designation under this section shall become effective sixty days after it is published, unless the governor of any state involved shall, before the expiration of the sixty-day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his state, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the governor withdraws his certification of unacceptability.

In addition, recognizing the key role of state(s) in areas adjacent to but outside their jurisdiction, the Secretary

(Administrator NOAA) will consult with the state(s) and give due consideration to the views of the responsible state officials involved.

Where areas outside the territorial sea are involved, the State Department is to negotiate with other Governments to achieve protection of a sanctuary to the maximum extent possible.

The Title recognizes that a program will be undertaken by NOAA to identify areas for marine sanctuary status, and that nominations will be made by states, local governments, organizations, industry and individuals. Public participation will be encouraged during the study and analysis phases leading to designation. Prior to a designation of a marine sanctuary, public hearings must be held in the coastal areas most affected by the designation. Regulations are to be promulgated for each such designated sanctuary.

These guidelines set forth the concepts and procedures under which marine sanctuaries will be designated and managed.

The National Oceanic and Atmospheric Administration is publishing herewith the final guidelines describing procedures for nomination, processing of the nomination, designation, revisions, and certification of activities within marine sanctuaries. The final guidelines herewith were revised from the proposed guidelines based on comments received. A total of twenty-two (22) states, agencies, organizations and individuals submitted responses to the proposed Title III Guidelines published in the *FEDERAL REGISTER* on March 19, 1974. Of these responses received, four (4) were wholly favorable as to the nature and content of the guidelines as they appear in the *FEDERAL REGISTER* on March 19, 1974. Eighteen (18) commentators submitted suggestions concerning the proposed title guidelines.

The following analysis summarizes key comments received on various sections of the proposed rules and presents a rationale for the changes made:

1. *Introduction.* Concern was expressed that overly large areas of the coastal waters would be made marine sanctuaries. It is not expected, however, that large areas of the oceans and coastal waters will be designated as marine sanctuaries, and all activity prohibited or drastically reduced. It is expected that sanctuaries will be only large enough to permit accomplishment of the purposes specified in the Act.

In each area designated, some activities will be totally compatible, others will need to be modified, and others will not be permitted. The size of the area will depend upon the proposal, an analysis of the factual information, the outcome of the draft environmental impact statement process, and public hearings.

Another commentator indicated that the guidelines failed to properly implement the policy underlying the Title. With this single exception, the consensus

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of the reviewers was that the proposed guidelines were basically in harmony with the legislative intent and authority.

One commentator stated that multiple use of various sanctuaries seem to provide for extensive use that is neither intended nor permitted by the statute. An opposite point of view was expressed by commentators that the guidelines implied too restrictive a view of multiple use.

The question of multiple use will need to be examined on a case by case basis. The legislative history of the Title clearly indicates that multiple use of each area should be maximized consistent with the primary purpose. Additionally, the statute clearly indicates, as a safeguard that "no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary (Administrator) shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated . . ."

2. *Programmatic objectives.* One reviewer indicated that programmatic objectives § 922.2(a) provided for protection of geological and oceanographic features whereas the classification § 922.10 did not. The classification § 922.10 has been modified to provide for these purposes. It was suggested that estuarine sanctuaries be added to the list of public areas in § 922.2(b). The phrase "other preserved areas" covers not only estuarine sanctuaries but also other areas held for the public benefit. The intent is to complement public and private lands that are held and managed for purposes analogous to Title III.

3. *Definitions.* Concern was expressed that the definition of multiple use did not clearly express the concept that a sanctuary will have a primary purpose to which other uses must be compatible. The definitions has been modified accordingly.

4. *Effect of Marine Sanctuary Designation for Waters Outside of U.S. Jurisdictional Limits.* It was indicated that § 922.12 did not accurately reflect the 1958 Geneva Convention on the High Seas. The Department of State made specific recommendations in lieu of the proposed section. Their recommendation has been incorporated verbatim.

5. *Nominations.* Several commentators asserted that the nomination process was not clearly elaborated and that no indication exists that NOAA is charged with the responsibility to take an active role in seeking areas for designation as marine sanctuaries.

Changes have been made to explain how interested individuals and organizations may obtain information as to nominations and their status and to explain how NOAA will stimulate and coordinate a Federal program.

6. *Analysis of nominations.* Concern was indicated that the public was not included in the analysis process at an early enough time and that the guidelines were ambiguous as to the prepara-

tion of a draft environmental impact statement and public notice thereof.

Changes have been made to indicate that a draft environmental impact statement will be prepared and that public notice will announce its public availability and solicit comment.

7. *Consultation.* One commentator indicated the guidelines did not elaborate how differences between a state and NOAA would be resolved. Where the proposed sanctuary is within areas over which the state has jurisdiction the Governor has veto power over the action. It is anticipated that in all considerations the state(s) affected will be fully involved in the process, thus differences can be resolved at each step of the process.

8. *Revision and certification.* Concern was expressed that provisions were omitted for revising an established sanctuary and for certification of proposed activities in a sanctuary.

New sections have been added in order to satisfy these concerns.

T. P. GLEITER,
Assistant Administrator
for Administration.

A new Part 922 is added, to read as follows:

- Subpart A—General**
- Sec. 922.1 Policy and objectives.
922.2 Programmatic objectives.
- Subpart B—Classifications of Marine Sanctuaries**
- 922.10 Classifications.
922.11 Definitions.
922.12 Effect of marine sanctuary designation of waters outside of U.S. jurisdictional limits.
922.13 Effect of international principles involving freedom of the seas.
- Subpart C—Nomination of Candidates**
- 922.20 Nominations.
922.21 Analysis of nomination.
922.22 Public participation.
922.23 Consultation process.
922.24 Designation.
922.25 Operation.
922.26 Revision.
922.27 Certification of other activities.
- Subpart D—Enforcement**
- 922.30 Civil penalties.
922.31 Notice of violation.
922.32 Enforcement hearings.
922.33 Determinations.
922.34 Final action.

AUTHORITY: Title III, Pub. L. 92-532, 86 Stat. 1061, and delegation of authority by Secretary of Commerce, March 18, 1974.

Subpart A—General

§ 922.1 Policy and objectives.

(a) The Marine Sanctuaries Program shall be conducted under the expressed policy of the Title which is to designate areas as far seaward as the outer edge of the continental shelf, as defined in the Convention of the Continental Shelf, 15 U.S.T. 74; TIAS 5578, of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which the Administrator determines necessary for the purpose of preserving or restoring such areas for their

conservation, recreational, ecological, or esthetic values.

(b) Multiple use of marine sanctuaries as defined in this subpart will be permitted to the extent the uses are compatible with the primary purpose(s) of the sanctuary.

(c) It is anticipated that the marine sanctuaries program will be conducted in close cooperation with section 312 of the Coastal Zone Management Act of 1972, P.L. 92-583, which recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation and which authorizes the Secretary of Commerce to make available to a coastal State grants of up to 50 percent of the costs of acquisition, development and operation of estuarine sanctuaries.

§ 922.2 Programmatic objectives.

Marine Sanctuaries may be designated to preserve, restore, or enhance areas for their conservation, recreational, ecological, research or esthetic values in coastal waters. Anticipated examples include:

(a) Areas necessary to protect valuable, unique or endangered marine life, geological features, and oceanographic features.

(b) Areas to complement and enhance public areas such as parks, national seashores and national or state monuments and other preserved areas.

(c) Areas important to the survival and preservation of the nation's fisheries and other ocean resources.

(d) Areas to advance and promote research which will lead to a more thorough understanding of the marine ecosystem and the impact of man's activities.

Subpart B—Classification of Marine Sanctuaries

§ 922.10 Classifications.

Multiple use may be permitted in each classification to the extent the uses are compatible with the primary purpose(s) for which the sanctuary is established. Areas may be established to augment public and private lands or marine areas set aside by local, state or Federal government and private organizations for analogous purposes. Marine sanctuaries will be established for one, or a combination of, the following purposes:

(a) *Habitat areas.* Areas established under this concept are for the preservation, protection and management of essential or specialized habitats representative of important marine systems. Management emphasis will be toward preservation. The quantity and type of public use will be limited and controlled to protect the values for which the area was created.

(b) *Species areas.* Areas established under this concept are for conservation of genetic resources. Management emphasis may be to maintain species, populations and communities for restocking

other areas and for reestablishment purposes in the future. The result will be a contribution to the goal stated by the Council on Environmental Quality, that is, "the widest possible diversity of and within species should be maintained for ecological stability of the biosphere and for use as natural resources." The orientation envisaged will be toward species preservation by protection of such areas as migratory pathways, spawning grounds, nursery grounds, and the constraints on these areas will be those necessary to achieve these purposes.

(c) **Research areas.** (1) Areas established under this concept will exist for scientific research and education in support of management programs carried out for the purpose of the title.

(2) The purpose of the research areas is to establish ecological baselines against which to compare and predict the effect on man's activities, and to develop an understanding of natural processes. Research areas will be chosen according to the biota they support, to include representative samples of the significant ecosystems in the nation, and to the history of prior research carried out in the area, and its proximity or availability to potential uses. Marine sanctuary designation will insure that the area will be relatively unaffected for a long period of time, thus adding a measure of stability to a research program and the value of the data in management decisions.

(d) **Recreational and esthetic areas.** Areas established under this concept will be based on esthetic or recreational value.

(e) **Unique areas.** Areas established under this concept will be to protect unique or nearly one of a kind geological, oceanographic, or living resource feature.

§ 922.11 Definitions.

As used in this part, the following terms shall have the meaning indicated below:

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Marine sanctuary" means those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf, 15 U.S.T. 74, TIAS 5578, of other coastal waters where the tide ebbs and flows, of the Great Lakes and their connecting waters, for the purpose of preserving, restoring or enhancing such areas for their conservation, recreational, ecological, research, or esthetic values.

(c) The term "multiple use" as used in this section shall mean the contemporaneous utilization of an area or resource for a variety of compatible purposes to the primary purpose so as to provide more than one benefit. The term implies the long-term, continued uses of such resources in such a fashion that one will not interfere with, diminish, or prevent other permitted uses.

(d) "Ocean waters" means those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention of the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606, TIAS 5639.

(e) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any state or local unit of government.

(f) "Secretary" means the Secretary of Commerce.

§ 922.12 Effect of marine sanctuary designation for waters, outside the U.S. jurisdictional limits.

The designation of a marine sanctuary and the regulations pertaining to it will be binding on United States nationals. The United States has exclusive jurisdiction over all resources within the territorial sea in which it exercises sovereignty subject only to the right of innocent passage. Beyond that limit, the U.S. regulations would be binding on foreign citizens only to the extent consistent with international law.

§ 922.13 Effect on international principles involving freedom of the sea.

The designation of a marine sanctuary will not infringe upon the normal rights of innocent passage in territorial waters, the rights of navigation through international straits, or the freedoms of the high seas, including freedom of navigation.

Subpart C—Nomination of Candidates

§ 922.20 Nominations.

(a) The nomination of a given marine area for consideration as a designated marine sanctuary may result from studies carried out by Federal, State or local officials or from any other interested persons. Nominations should be addressed to:

Director, Office of Coastal Zone Management
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Rockville, Maryland 20853

Information may be obtained on nominations by inquiring to the above office.

(b) The nomination for designation as a marine sanctuary must contain the following information:

(1) A general description of the area including the following information:

(i) Purpose for which the nomination is made;

(ii) Geographic coordinates of the site;

(iii) Plant and animal life in the area;

(iv) Geological characteristics of the area; and

(v) Present and prospective uses and impacts on the area and resources thereof.

(2) A nomination for research purpose should contain a specific scientific justification, a statement of how the research will aid in management decisions,

and a history of prior research carried out on the area.

(c) A Federal program will be stimulated and coordinated by NOAA to establish a coherent system of estuarine and marine ecosystems, recreational and esthetic areas, and research areas. It is anticipated that this system will emerge as part of the State coastal zone management plans, taking into account the national interest.

§ 922.21 Analysis of nomination.

(a) Upon receipt of a nomination or as the result of action by NOAA, the involved State(s), other Federal agencies, will be notified of the nomination and requested to participate in a preliminary review to determine feasibility.

(b) If a preliminary review demonstrates the feasibility of the nomination, a more in-depth study will be required. Factual information will be gathered to obtain an understanding of the:

(1) Animal and plant life;

(2) Geological features;

(3) Weather and oceanographic conditions and features;

(4) Present and potential recreational and economic uses;

(5) Present and potential adjacent land uses;

(6) Laws and programs of Federal, State and local government that apply to the area.

(c) An analysis will be made of how the sanctuary will impact on the present and potential uses, and how these uses will impact on the primary purpose for which the sanctuary is being considered.

(d) The factual information and the results of the analysis activity will be used in preparation of a draft environmental impact statement and proposed regulations. Subsequent to completion of the in-depth study by the Administrator, a draft Environmental Impact Statement will be prepared and circulated for review in compliance with the National Environmental Policy Act of 1969 and implementing the Council on Environmental Quality guidelines. The draft Environmental Impact Statement will discuss proposed regulations and operational procedures and programs.

§ 922.22 Public participation.

(a) The purpose of this section is to ensure that all interested parties have the opportunity to present their views.

(b) When a nomination has been determined feasible, a press release will be issued by NOAA announcing the nomination and that a Draft Environmental Impact Statement is in preparation.

(c) When notice of the Draft Environmental Impact Statement (DEIS) has been published by the Council on Environmental Quality, a press release will be issued by NOAA announcing the DEIS and soliciting comment.

(d) The Administrator will hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the

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views of any interested party. Such hearings should be held no earlier than 30 days after the Council on Environmental Quality announces receipt of the draft Environmental Impact Statement by publication in the *Federal Register*. Public hearings need not be held on each proposal or nomination, but only when sufficient facts and data are available to the Administrator which indicates that designation action appears to be feasible, and a Draft Environmental Impact Statement has been prepared.

§ 922.23 Consultation process.

The consultation process is designed to coordinate the interests of the State and various Federal departments and agencies, including those responsible for the management of fisheries resources, the protection of national security and transportation interests, and the recognition of responsibility for the exploration and exploitation of mineral resources.

§ 922.24 Designation.

The designation by the Administrator will clearly state the purpose for which the sanctuary is designated, regulations and guidelines promulgated, and management program under which it will operate.

§ 922.25 Operation.

The designation of a marine sanctuary establishes the basis for a continuous operating program designated to maintain the purpose for which the sanctuary is designated. This involves a program of continuous scientific evaluation, surveillance, and enforcement to insure the integrity of the system. An interpretive program may be conducted to aid in public understanding and enjoyment of the sanctuary. A specific program will be established for each designated marine sanctuary.

§ 922.26 Revision.

Revision of a designated marine sanctuary may be proposed by the same procedure as for nomination. A public hearing will be held in the area most affected by the proposed action. A Draft Environmental Impact Statement may be required if the proposed action will significantly affect the quality of the Environment.

§ 922.27 Certification of other activities.

The Act specifies that once a marine sanctuary is designated, no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated. The Regulations promulgated for each sanctuary will contain a certification procedure.

Subpart D—Enforcement

§ 922.30 Penalties.

Any person subject to the jurisdiction of the United States who violates any

regulation issued pursuant to this title will be liable to a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Administrator. Each day of a continuing violation will constitute a separate violation. No penalty will be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Administrator, will commence action in the appropriate district court of the United States in order to collect the penalty and to seek such other relief as may be appropriate. A vessel used in the violation of a regulation issued pursuant to this title will be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof. The district courts of the United States will have jurisdiction to restrain a violation of the regulations issued pursuant to this title, and to grant such other relief as may be appropriate. Actions will be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Administrator.

§ 922.31 Notice of violation.

Upon receipt of information that any person has violated any provision of this title, the Administrator or his designee will notify such person in writing of the violation with which he is charged, and will convene a hearing to be conducted no sooner than 60 days after such notice, at a convenient location, before a hearing officer. Such hearing will be conducted in accordance with the procedures of § 922.32.

§ 922.32 Enforcement hearings.

Hearings convened pursuant to § 922.31 will be hearings on a record before a hearing officer. Parties may be represented by counsel, and will have the right to submit motions, to present evidence in their own behalf, to cross examine adverse witnesses, to be apprised of all evidence considered by the hearing officer, and to receive copies of the transcript of the proceedings. Formal rules of evidence will not apply. The hearing officer will rule on all evidentiary matters, and on all motions, which will be subject to review pursuant to § 922.33.

§ 922.33 Determinations.

Within 30 days following conclusion of the hearing, the hearing officer will in all cases make findings of facts and recommendations to the Administrator, including, when appropriate, a recommended appropriate penalty, after consideration of the gravity of the violation, prior violations by the person charged, and the demonstrated good faith by such person in attempting to achieve rapid compliance with the provisions of the title and regulations issued pursuant thereto. A copy of the findings and recommendations of the hearing officer shall be provided to the person charged at the same time they are for-

warded to the Administrator. Within 30 days of the date on which the hearing officer's findings and recommendations are forwarded to the Administrator, any party objecting thereto may file written exceptions with the Administrator.

§ 922.34 Final action.

A final order on a proceeding under this part will be issued by the Administrator or by such other person designated by the Administrator to take such final action, no sooner than 30 days following receipt of the findings and recommendations of the hearing officer. A copy of the final order will be served by registered mail (return receipt requested) on the person charged or his representative. In the event the final order assesses a penalty, it shall be payable within 60 days of the date of receipt of the final order, unless judicial review of the order is sought by the person against whom the penalty is assessed.

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PART IV



DEPARTMENT OF COMMERCE

National Oceanic and
Atmospheric Administration



Estuarine Sanctuary Guidelines



federal register

RULES AND REGULATIONS

Title 15—Commerce and Foreign Trade
**CHAPTER IX—NATIONAL OCEANIC AND
 ATMOSPHERIC ADMINISTRATION, DE-
 PARTMENT OF COMMERCE**

**PART 921—ESTUARINE SANCTUARY
 GUIDELINES**

The National Oceanic and Atmospheric Administration (NOAA) on March 7, 1974, proposed guidelines (15 CFR Part 921) pursuant to section 312 of the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of establishing the policy and procedures for the nomination, selection and management of estuarine sanctuaries.

Written comments were to be submitted to the Office of Coastal Environment (now the Office of Coastal Zone Management), National Oceanic and Atmospheric Administration, before April 8, 1974, and consideration has been given those comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation. States are encouraged to develop and implement management programs to achieve wise use of the resources of the coastal zone, and the Act authorizes Federal grants to the States for these purposes (sections 305 and 308).

In addition, under section 312 of the Act, the Secretary of Commerce is authorized to make available to a coastal State grants of up to 50 per centum of the cost of acquisition, development and operation of estuarine sanctuaries. The guidelines contained in this part are for grants under section 312.

In general, section 312 provides that grants may be awarded to States on a matching basis to acquire, develop and operate natural areas as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time ecological relationships within the area. The purpose of these guidelines is to establish the rules and regulations for implementation of this program.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing the procedures for applications to receive grants for estuarine sanctuaries under section 312 of the Act. The final regulations and criteria were revised from the proposed guidelines based on the comments received. A total of fifty (50) States, agencies, organizations and individuals submitted responses to the proposed section 312 guidelines published in the FEDERAL REGISTER on March 7, 1974. Of those responses received, eight (8) offered no comment or were wholly favorable as to the nature and content of the guidelines as originally proposed. Forty-two (42) commentators submitted suggestions concerning the proposed section 312 guidelines.

The following summary analyzes key comments received on various sections of

the proposed regulations and presents the rationale for the responses made.

Section 921.2 Definitions. Three comments requested that the term "estuary" be defined. Although the term is defined in the Act and also in the regulations dealing with Coastal Zone Management Program Development Grants (Part 920 of this chapter) published November 29, 1973, it has been added to these regulations and broadened slightly to include marine lagoons with restricted freshwater input such as might occur along the south Texas coast.

Two other comments requested that the "primary purpose" referred to in § 921.2(b) be clearly defined. Although elaborated upon in § 921.3(a), for the purpose of clarity this change has been made.

Section 921.3 Objectives and Implementation. Several comments suggested that the estuarine sanctuary program objectives were too narrowly defined and specifically that they should be broadened to include the acquisition and preservation of unique or endangered estuaries for wildlife or ecological reasons. Although the Act (section 302) declares it the nation's policy to preserve, protect, develop, and where possible, to restore or enhance coastal resources, this is perceived to be achievable through State actions pursuant to sections 305 and 308. While it is recognized that the creation of an estuarine sanctuary may in fact serve to preserve or protect an area or biological community, the legislative history of section 312 clearly indicates the estuarine sanctuary program was not intended to duplicate existing broad purpose Federal preservation programs, such as might be accommodated by use of the Land and Water Conservation Fund Act. Instead, both in the Act as well as its legislative history, the objective is defined as preserving representative estuarine areas for long-term research and educational uses.

Three other comments suggested the objectives of the program should be enlarged to include the restoration of environmentally degraded areas. This, too, is perceived to be a State requirement separate from section 312. In addition, adequate authority for restoring degraded water areas now exists (for example, Pub. L. 92-500 in addition to sections 302, 305 and 306 of the Act). No significant additional benefit would appear to result from declaring an area an estuarine sanctuary for the purposes of restoration.

A few comments indicated that the examples of sanctuary use were too heavily weighted toward scientific uses to the exclusion of educational uses. Public education concerning the value and benefits of, and the nature of conflict within the coastal zone, will be essential to the success of a coastal zone management program. The section has been changed to reflect an appropriate concern for educational use.

Some commentators suggested changes in or additions to the specific examples of sanctuary uses and purposes. These examples were taken from the Senate

and House Committee Reports and are considered sufficient to reflect the kinds of uses intended within an estuarine sanctuary.

Several comments were received pertaining to § 921.3(c) involving the restrictions against overemphasis of destructive or manipulative research. Ten comments indicated that the section was too weak and would not provide sufficient long-term protection for the sanctuary ecosystem. Several commentators specifically recommended deleting the words "would not normally be permitted" and inserting in their place "will not be permitted." In contrast, three respondents indicated that the potential use of estuarine sanctuaries for manipulative or destructive research was too restricted, and that these uses should be generally permitted if not encouraged.

The legislative history of section 312 clearly indicates that the intent of the estuarine sanctuary program should be to preserve representative estuarine areas so that they may provide long-term (virtually permanent) scientific and educational use. The uses perceived are compatible with what has been defined as "research natural areas." In an era of rapidly degrading estuarine environments, the estuarine sanctuary program will ensure that a representative series of natural areas will be available for scientific or educational uses dependent on that natural character, for example, for baseline studies, for use in understanding the functioning of natural ecological systems, for controls against which the impacts of development in other areas might be compared, and as interpretive centers for educational purposes. Any use, research or otherwise, which would destroy or detract from the natural system, would be inappropriate under this program.

In general, the necessity of or benefit from permitting manipulative or destructive research within an estuarine sanctuary is unclear. While there is a legitimate need for such kinds of research, ample opportunity for manipulative or destructive research to assess directly man's impact or stresses on the estuarine environment exists now without the need for creation or use of an estuarine sanctuary for this purpose. In contrast, a clear need exists for natural areas to serve as controls for manipulative research or research on altered systems.

The section on manipulative research has been changed to reflect the concern for continued maintenance of the area as a natural system. However, the modifier "normally" has been retained because, within these limits, it is not felt necessary to preclude all such uses; the occasion may rarely arise when because of a thoroughly demonstrated direct benefit, such research may be permitted.

Several comments suggested that the program should include degraded estuarine systems, rather than be limited to areas which are "relatively undisturbed by human activities." Such areas would permit research efforts designed to restore an estuarine area. As indicated

above, an ample legislative mandate to restore environmentally degraded areas already exists; the benefits to be derived from declaring such areas estuarine sanctuaries would be marginal. Indeed, it would appear that if restoration efforts cannot occur without estuarine sanctuary designation, then, given the limited resources of this program, such efforts would not be feasible.

A few commentators suggested that the phrase (§ 921.3(e)) "if sufficient permanence and control by the State can be assured, the acquisition of a sanctuary may involve less than the acquisition of a fee simple interest" be more clearly defined. Explanatory language has been added to that section.

Section 921.4 *Zoogeographic Classification*. Because the classification scheme utilized plants as well as animals, two commentators suggested that zoogeographic be changed to biogeographic. This change is reflected in the final regulations.

One comment suggested that selection of sanctuaries should depend on the pressures and threats being brought to bear upon the natural areas involved even if this meant selecting several sanctuaries from one classification and none from another.

The legislative history of section 312 clearly shows the intent to select estuarine sanctuaries on a rational basis which would reflect regional differentiation and a variety of ecosystems. The biogeographic classification system, which reflects geographic, hydrographic, and biologic differences, fulfills that intention. A scheme which would abandon that system, or another similar one, and would not fulfill the requirements of providing regional differentiation and a variety of ecosystems, would not be consistent with the intended purpose of the Act.

A few comments received suggested that the biogeographic classification scheme be enlarged by the addition of a new class reflecting an area or State of special concern or interest to the respondent. (No two commentators suggested the same area.) It is felt that adequate national representation is provided by the biogeographic scheme proposed, and that the changes offered were in most cases examples of sub-categories that might be utilized.

One comment suggested a specific change in the definition of the "Great Lakes" category. Portions of that suggestion have been incorporated into the final rules.

Two commentators requested assurance that sub-categories of the biogeographic scheme will in fact be utilized. The final language substitutes "will be developed and utilized" for "may be developed and utilized."

Section 921.5 *Multiple Use*. Several comments were received pertaining to the multiple use concept. Three commentators suggested that the multiple use directive was contrary to or absent from the Act and should be omitted. Ten respondents felt the concept should be more explicitly defined and restricted so

that the primary purpose of the sanctuary would be more clearly protected. In contrast, two commentators felt that the definition might prove too restrictive and should be broadened. Several commentators suggested that examples of anticipated multiple use might be appropriate.

While recognizing that it is not always possible to accommodate more than a single use in an environmentally sensitive area, it is not the intention to unnecessarily preclude the uses of sanctuary areas where they are clearly compatible with and do not detract from the long-term protection of the ecosystem for scientific and educational purposes. The language of § 921.5 has been changed accordingly.

Section 921.6 *Relationship to Other Provisions of the Act and to Marine Sanctuaries*. Several comments were received which commended and stressed the need for close coordination between the development of State coastal zone management programs, especially land and water use controls, and the estuarine sanctuary program.

The relationship between the two programs is emphasized: estuarine sanctuaries should provide benefit—both short-term and long-term—to coastal zone management decision-makers; and State coastal zone management programs must provide necessary protection for estuarine sanctuaries. This necessary coordination is discussed not only in the estuarine sanctuary regulations, but will also be addressed in an appropriate fashion in guidelines and rules for Coastal Zone Management Program Approval Criteria and Administrative Grants.

Three commentators discussed the need for swift action by both State and Federal governments to establish and acquire estuarine sanctuaries. The Office of Coastal Zone Management intends to pursue the program as swiftly as available manpower restraints will permit.

A few comments sought reassurance that the estuarine sanctuaries program will in fact be coordinated with the Marine Sanctuaries Program (Title III, Pub. L. 92-532). The guidelines have been changed to reflect that both programs will be administered by the same office.

SUBPART B—APPLICATION FOR GRANTS

Section 921.10 *General*. One reviewer indicated uncertainty about which State agency may submit applications for grants under section 312. Although individual States may vary in the choice of individual agencies to apply for an estuarine sanctuary, because of the necessity for coordination with the State coastal zone management program the entity within the State which is the certified contact with the Office of Coastal Zone Management, NOAA, responsible for the administration of the coastal zone management program must endorse or approve an estuarine sanctuary application.

Appropriate language has been included to ensure this coordination.

Section 921.11 *Initial Application for Acquisition, Development and Operation*

Grants. Two comments requested that the source and nature of acceptable matching funds should be explicitly identified.

OMB Circular A-102 generally defines and identifies legitimate "match" for Federal grant projects. In general, reference should be made to that document. However, the section has been expanded in response to some specific and frequent questions.

Two comments stressed the need for increased availability of research funds to adequately utilize the potential of estuarine sanctuaries. While not an appropriate function of the estuarine sanctuary program, the Office of Coastal Zone Management is discussing the necessity of adequate funding with appropriate agencies.

One comment suggested that the term "legal description" of the sanctuary (§ 921.11(a)) is not appropriate for all categories of information requested. The word "legal" has been omitted.

Three reviewers indicated that the Act provides no basis for consideration of socio-economic impacts (§ 921.11(l)) and that this criterion seemed inappropriate to selecting estuarine sanctuaries. Apparently these reviewers misunderstood the intention of this requirement. The information in this section is necessary for preparation of an environmental impact statement which will be prepared pursuant to NEPA. Although required in the application, such information is not a part of the selection criteria, which are addressed in Subpart C, § 921.20.

One similar comment was received with regard to consideration of existing and potential uses and conflicts (§ 921.11(h)). This item is also discussed under selection criteria (§ 921.20(h)). It is intended that this criterion will only be considered when choosing between two or more sanctuary applications within the same biogeographic category which are of otherwise equal merit.

One comment drew attention to an apparent typographic error in § 921.11(m) where the term "marine estuaries" seems out of context. This has been corrected.

Two commentators suggested that public hearings should be required in the development of an estuarine sanctuary application. Although such a hearing is deemed desirable by the Office of Coastal Zone Management, it would not always seem to be necessary. The language in § 920.11(l) has been changed to reflect the sincere concern for the adequate involvement of the public, which is also addressed under a new § 920.21.

One respondent suggested that a new section be added requiring the applicant to discuss alternative methods of acquisition or control of the area, including the designation of a marine sanctuary, in place of establishing an estuarine sanctuary. A new section (§ 920.11(n)) has been added for this purpose.

Section 921.12 *Subsequent Application for Development and Operation Grants*. Three commentators expressed concern that the intent of § 921.12 be more clearly expressed. Appropriate changes have been made.

One comment was made that a provision should be included to use existing Federally owned land for the purpose of the estuarine sanctuary program. A section has been added for that purpose.

Section 921.20 *Criteria for Selection*. One comment suggested that the consideration of conflict with existing or potential competing uses should not be included as a selection criterion. As discussed above, this criterion is considered appropriate.

Another reviewer suggested the addition of a new criterion, consideration of "the need to protect a particular estuary from harmful development." As discussed earlier, this criterion is not considered appropriate. Such a basis for determining selection would lead to a reactionary, random series of estuarine sanctuaries, rather than the rationally chosen representative series mandated in the legislative history.

Two reviewers commented that the limitation on the Federal share (\$2,000,000 for each sanctuary) was too low and would severely restrict the usefulness of the program. However, this limitation is provided by the Act.

Another commentator suggested that § 921.20(g) was unnecessarily restrictive in that it might prevent selecting an estuarine sanctuary in an area adjacent to existing preserved lands where the conjunction might be mutually beneficial. The language of § 921.20(g) does not preclude such action, but has been changed to specifically permit this possibility.

Two commentators inquired whether the reference to a "draft" environmental impact statement (§ 921.20, last paragraph) indicated an intention to avoid further compliance with NEPA. It is the firm intention of the Office of Coastal Zone Management to fully comply in all respects with NEPA. The word "draft" has been struck.

Three reviewers addressed the problems of providing adequate public participation in the review and selection process. In addition to the change in § 920.11(1), a new section has been added to address this issue.

SUBPART D—OPERATION

Section 921.30 *General*. One commentator suggested that during contract negotiations, there should be a meeting between the applicant agency and proposed sanctuary management team, and representatives of the Office of Coastal Zone Management. The general provisions have been broadened to provide for this suggestion.

Two comments were submitted which urged that some discretion be exercised in the use and access to the sanctuary by scientists and students. Two other comments were received which requested specific protection for use by the general public. The guidelines have been changed to include these suggestions.

One comment was received suggesting language to clarify § 921.30(g). This was incorporated into the guidelines.

Two commentators expressed concern for enforcement capabilities and activities to ensure protection of the estuarine sanctuaries. A new section has been added which addresses this issue.

Finally, one suggestion was received that a vehicle for change in the management policy or research programs should be provided. A new section has been added for that purpose.

Accordingly, having considered the comments received and other relevant information, the Secretary concludes by adopting the final regulations describing the procedure for applications to receive estuarine sanctuary grants under section 312 of the Act, as modified and set forth below.

Effective date: June 3, 1974.

Dated: May 31, 1974.

ROBERT M. WHITE,
Administrator.

Subpart A—General

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Subpart B—Application for Grants

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| 921.10 | General. |
| 921.11 | Application for initial acquisition, development and operation grants. |
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Subpart C—Selection Criteria

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| 921.30 | General. |
| 921.31 | Changes in the sanctuary boundary, management policy or research program. |
| 921.32 | Program review. |

AUTHORITY: Sec. 312 of the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280).

Subpart A—General

§ 921.1 Policy and Objectives.

The estuarine sanctuaries program will provide grants to States on a matching basis to acquire, develop and operate natural areas as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time the ecological relationships within the area. The purpose of these guidelines is to establish the rules and regulations for implementation of the program.

§ 921.2 Definitions.

(a) In addition to the definitions found in the Act and in the regulations dealing with Coastal Zone Management Program Development Grants published November 29, 1973 (Part 920 of this chapter) the term "estuarine sanctuary" as defined in the Act, means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting

to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(b) For the purposes of this section, "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea where the seawater is measurably diluted with freshwater derived from land drainage. The term includes estuary-type areas of the Great Lakes as well as lagoons in more arid coastal regions.

(c) The term "multiple use" as used in this section shall mean the simultaneous utilization of an area or resource for a variety of compatible purposes or to provide more than one benefit. The term implies the long-term, continued uses of such resources in such a fashion that other uses will not interfere with, diminish or prevent the primary purpose, which is the long-term protection of the area for scientific and educational use.

§ 921.3 Objectives and implementation of the program.

(a) *General*. The purpose of the estuarine sanctuaries program is to create natural field laboratories in which to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. This shall be accomplished by the establishment of a series of estuarine sanctuaries which will be designated so that at least one representative of each type of estuarine ecosystem will endure into the future for scientific and educational purposes. The primary use of estuarine sanctuaries shall be for research and educational purposes, especially to provide some of the information essential to coastal zone management decision-making. Specific examples of such purposes and uses include but are not limited to:

(1) To gain a thorough understanding of the ecological relationships within the estuarine environment.

(2) To make baseline ecological measurements.

(3) To monitor significant or vital changes in the estuarine environment.

(4) To assess the effects of man's stresses on the ecosystem and to forecast and mitigate possible deterioration from human activities.

(5) To provide a vehicle for increasing public knowledge and awareness of the complex nature of estuarine systems, their values and benefits to man and nature, and the problems which confront them.

(b) The emphasis within the program will be on the designation as estuarine sanctuaries of areas which will serve as natural field laboratories for studies and investigations over an extended period. The area chosen as an estuarine sanctuary shall, to the extent feasible, include water and land masses constituting a natural ecological unit.

(c) In order that the estuarine sanctuary will be available for future studies, research involving the destruction of any portion of an estuarine sanctuary which would permanently alter the nature of the ecosystem shall not normally be

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permitted. In the unusual circumstances where permitted, manipulative field research shall be carefully controlled. No experiment which involves manipulative research shall be initiated until the termination date is specified and evidence given that the environment will be returned to its condition which existed prior to the experiment.

(d) It is anticipated that most of the areas selected as sanctuaries will be relatively undisturbed by human activities at the time of acquisition. Therefore, most of the areas selected will be areas with a minimum of development, industry or habitation.

(e) If sufficient permanence and control by the State can be assured, the acquisition of a sanctuary may involve less than the acquisition of a fee simple interest. Such interest may be, for example, the acquisition of a conservation easement, "development rights", or other partial interest sufficient to assure the protection of the natural system. Leasing, which would not assure permanent protection of the system, would not be an acceptable alternative.

§ 921.4 Biogeographic classification.

(a) It is intended that estuarine sanctuaries should not be chosen at random, but should reflect regional differentiation and a variety of ecosystems so as to cover all significant variations. To ensure adequate representation of all estuarine types reflecting regional differentiation and a variety of ecosystems, selections will be made by the Secretary from the following biogeographic classifications:

1. *Arcadian*. Northeast Atlantic coast south to Cape Cod; glaciated shoreline subject to winter icing; well developed algal flora; boreal biota.

2. *Virginian*. Middle Atlantic coast from Cape Cod to Cape Hatteras; lowland streams, coastal marshes and muddy bottoms; characteristics transitional between 1 and 3; biota primarily temperate with some boreal representatives.

3. *Carolinian*. South Atlantic coast, from Cape Hatteras to Cape Kennedy; extensive marshes and swamps; waters turbid and productive; biota temperate with seasonal tropical elements.

4. *West Indian*. South Florida coast from Cape Kennedy to Cedar Key; and Caribbean Islands; shoreland low-lying limestone; calcareous sands, marls and coral reefs; coastal marshes and mangroves; tropical biota.

5. *Louisianian*. Northern Gulf of Mexico, from Cedar Key to Mexico; characteristics of 3, with components of 4; strongly influenced by terrigenous factors; biota primarily temperate.

6. *Californian*. South Pacific coast from Mexico to Cape Mendocino; shoreland influenced by coastal mountains; rocky coasts with reduced fresh-water runoff; general absence of marshes and swamps; biota temperate.

7. *Columbian*. North Pacific coast from Cape Mendocino to Canada; mountainous shoreland; rocky coasts; extensive algal communities; biota primarily temperate with some boreal.

8. *Florida*. South coast Alaska and Aleutians; precipitous mountains; deep estuaries, some with glaciers; shoreline heavily in-

dented and subject to winter icing; biota boreal to sub-Arctic.

9. *Subarctic*. West and north coasts of Alaska; ice stressed coasts; biota Arctic and sub-Arctic.

10. *Inular*. Larger islands, sometimes with precipitous mountains; considerable wave action; frequently with endemic species; larger island groups primarily with tropical biota.

11. *Great Lakes*. Great Lakes of North America; bluff-dune or rocky, glaciated shoreline; limited wetlands; freshwater only; biota a mixture of boreal and temperate species with anadromous species and some marine invaders.

(b) Various sub-categories will be developed and utilized as appropriate.

§ 921.5 Multiple use.

(a) While the primary purpose of estuarine sanctuaries is to provide long-term protection for natural areas so that they may be used for scientific and educational purposes, multiple use of estuarine sanctuaries will be encouraged to the extent that such use is compatible with this primary sanctuary purpose. The capacity of a given sanctuary to accommodate additional uses, and the kinds and intensity of such use, will be determined on a case by case basis. While it is anticipated that compatible uses may generally include activities such as low intensity recreation, fishing, hunting, and wildlife observation, it is recognized that the exclusive use of an area for scientific or educational purposes may provide the optimum benefit to coastal zone management and resource use and may on occasion be necessary.

(b) There shall be no effort to balance or optimize uses of an estuarine sanctuary on economic or other bases. All additional uses of the sanctuary are clearly secondary to the primary purpose and uses, which are long-term maintenance of the ecosystem for scientific and educational uses. Non-compatible uses, including those uses which would cause significant short or long-term ecological change or would otherwise detract from or restrict the use of the sanctuary as a natural field laboratory, will be prohibited.

§ 921.6 Relationship to other provisions of the act and to marine sanctuaries.

(a) The estuarine sanctuary program must interact with the overall coastal zone management program in two ways: (1) the intended research use of the sanctuary should provide relevant data and conclusions of assistance to coastal zone management decision-making, and (2) when developed, the State's coastal zone management program must recognize and be designed to protect the estuarine sanctuary; appropriate land and water use regulations and planning considerations must apply to adjacent lands. Although estuarine sanctuaries should be incorporated into the State coastal zone management program, their designation need not await the development and approval of the management program where operation of the estuarine sanctuary would aid in the development of a program.

(b) The estuarine sanctuaries program will be conducted in close cooperation with the marine sanctuaries program (Title III of the Marine Protection, Research Act of 1972, Pub. L. 92-532, which is also administered by the Office of Coastal Zone Management, NOAA), which recognizes that certain areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, or other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, need to be preserved or restored for their conservation, recreational, ecologic or esthetic values. It is anticipated that the Secretary on occasion may establish marine sanctuaries to complement the designation by States of estuarine sanctuaries, where this may be mutually beneficial.

Subpart B—Application for Grants

§ 921.10 General.

Section 312 authorizes Federal grants to coastal States so that the States may establish sanctuaries according to regulations promulgated by the Secretary. Coastal States may file applications for grants with the Director, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852. That agency which has been certified to the Office of Coastal Zone Management as the entity responsible for administration of the State coastal zone management program may either submit an application directly, or must endorse and approve applications submitted by other agencies within the State.

§ 921.11 Application for initial acquisition, development and operation grants.

(a) Grants may be awarded on a matching basis to cover the costs of acquisition, development and operation of estuarine sanctuaries. States may use donations of land or money to satisfy all or part of the matching cost requirements.

(b) In general, lands acquired pursuant to this section, including State owned lands but not State owned submerged lands or bay bottoms, that occur within the proposed sanctuary boundary are legitimate costs and their fair market value may be included as match. However, the value of lands donated to or by the State for inclusion in the sanctuary may only be used to match other costs of land acquisition. In the event that lands already exist in a protected status, their value cannot be used as match for sanctuary development and operation grants, which will require their own matching funds.

(c) Development and operation costs may include the administrative expenses necessary to monitor the sanctuary, to ensure its continued viability and to protect the integrity of the ecosystem. Research will not normally be funded by Section 312 grants. It is anticipated that other sources of Federal, State and

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private funds will be available for research in estuarine sanctuaries.

(d) Initial applications should contain the following information:

(1) Description of the proposed sanctuary include location, boundaries, size and cost of acquisition, operation and development. A map should be included, as well as an aerial photograph, if available.

(2) Classification of the proposed sanctuary according to the biogeographic scheme set forth in § 921.4.

(3) Description of the major physical, geographic and biological characteristics and resources of the proposed sanctuary.

(4) Identification of ownership patterns; proportion of land already in the public domain.

(5) Description of intended research uses, potential research organizations or agencies and benefits to the overall coastal zone management program.

(6) Demonstration of necessary authority to acquire or control and manage the sanctuary.

(7) Description of proposed management techniques, including the management agency, principles and proposed budget including both State and Federal shares.

(8) Description of existing and potential uses of and conflicts within the area if it were not declared an estuarine sanctuary; potential use, use restrictions and conflicts if the sanctuary is established.

(i) Assessment of the environmental and socio-economic impacts of declaring the area an estuarine sanctuary, including the economic impact of such a designation on the surrounding community and its tax base.

(9) Description of planned or anticipated land and water use and controls for contiguous lands surrounding the proposed sanctuary (including if appropriate an analysis of the desirability of creating a marine sanctuary in adjacent areas).

(10) List of protected sites, either within the estuarine sanctuaries program or within other Federal, State or private programs, which are located in the same regional or biogeographic classification.

(i) It is essential that the opportunity be provided for public involvement and input in the development of the sanctuary proposal and application. Where the application is controversial or where controversial issues are addressed, the State should provide adequate means to ensure that all interested parties have the opportunity to present their views. This may be in the form of an adequately advertised public hearing.

(ii) During the development of an estuarine sanctuary application, all landowners within the proposed boundaries should be informed in writing of the proposed grant application.

(iii) The application should indicate the manner in which the State solicited the views of all interested parties prior to the actual submission of the application.

(e) In order to develop a truly representative scheme of estuarine sanctuaries, the States should attempt to coordinate their activities. This will help to minimize the possibility of similar estuarine types being proposed for designation in the same region. The application should indicate the extent to which neighboring States were consulted.

(f) Discussion, including cost and feasibility, of alternative methods for acquisition, control and protection of the area to provide similar uses. Use of the Marine Sanctuary authority and funds from the Land and Water Conservation Fund Act should be specifically addressed.

§ 921.12 Application for subsequent development and operation grants.

(a) Although the initial grant application for creation of an estuarine sanctuary should include initial development and operation costs, subsequent applications may be submitted following acquisition and establishment of an estuarine sanctuary for additional development and operation funds. As indicated in § 921.11, these costs may include administrative costs necessary to monitor the sanctuary and to protect the integrity of the ecosystem. Extensive management programs, capital expenses, or research will not normally be funded by section 312 grants.

(b) After the creation of an estuarine sanctuary established under this program, applications for such development and operation grants should include at least the following information:

(1) Identification of the boundary.

(2) Specifications of the management program, including managing agency and techniques.

(3) Detailed budget.

(4) Discussion of recent and projected use of the sanctuary.

(5) Perceived threats to the integrity of the sanctuary.

§ 921.13 Federally owned lands.

(a) Where Federally owned lands are a part of or adjacent to the area proposed for designation as an estuarine sanctuary, or where the control of land and water uses on such lands is necessary to protect the natural system within the sanctuary, the State should contact the Federal agency maintaining control of the land to request cooperation in providing coordinated management policies. Such lands and State request, and the Federal agency response, should be identified and conveyed to the Office of Coastal Zone Management.

(b) Where such proposed use or control of Federally owned lands would not conflict with the Federal use of their lands, such cooperation and coordination is encouraged to the maximum extent feasible.

(c) Section 312 grants may not be awarded to Federal agencies for creation of estuarine sanctuaries in Federally owned lands; however, a similar status may be provided on a voluntary basis for Federally owned lands under the provisions of the Federal Committee on Ecological Preserves program.

Subpart C—Selection Criteria

§ 921.20 Criteria for selection.

Applications for grants to establish estuarine sanctuaries will be reviewed and judged on criteria including:

(a) Benefit to the coastal zone management program. Applications should demonstrate the benefit of the proposal to the development or operations of the overall coastal zone management program, including how well the proposal fits into the national program of representative estuarine types; the national or regional benefits; and the usefulness in research.

(b) The ecological characteristics of the ecosystem, including its biological productivity, diversity and representativeness. Extent of alteration of the natural system, its ability to remain a viable and healthy system in view of the present and possible development of external stresses.

(c) Size and choice of boundaries. To the extent feasible, estuarine sanctuaries should approximate a natural ecological unit. The minimal acceptable size will vary greatly and will depend on the nature of the ecosystem.

(d) Cost. Although the Act limits the Federal share of the cost for each sanctuary to \$2,000,000, it is anticipated that in practice the average grant will be substantially less than this.

(e) Enhancement of non-competitive uses.

(f) Proximity and access to existing research facilities.

(g) Availability of suitable alternative sites already protected which might be capable of providing the same use or benefit. Unnecessary duplication of existing activities under other programs should be avoided. However, estuarine sanctuaries might be established adjacent to existing preserved lands where mutual enhancement or benefit of each might occur.

(h) Conflict with existing or potential competing uses.

(i) Compatibility with existing or proposed land and water use in contiguous areas.

If the initial review demonstrates the feasibility of the application, an environmental impact statement will be prepared by the Office of Coastal Zone Management in accordance with the National Environmental Policy Act of 1969 and implementing CEQ guidelines.

§ 921.21 Public participation.

Public participation will be an essential factor in the selection of estuarine sanctuaries. In addition to the participation during the application development process (§ 921.11(e)), public participation will be ensured at the Federal level by the NEPA process and by public hearings where desirable subsequent to NEPA. Such public hearings shall be held by the Office of Coastal Zone Management in the area to be affected by the proposed sanctuary no sooner than 30 days after it issues a draft environmental impact

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statement on the sanctuary proposal. It will be the responsibility of the Office of Coastal Zone Management, with the assistance of the applicant State, to issue adequate public notice of its intention to hold a public hearing. Such public notice shall be distributed widely, especially in the area of the proposed sanctuary; affected property owners and those agencies, organizations or individuals with an identified interest in the area or estuarine sanctuary program shall be notified of the public hearing. The public notice shall contain the name, address and phone number of the appropriate Federal and State officials to contact for additional information about the proposal.

Subpart D—Operation

§ 921.30 General.

Management of estuarine sanctuaries shall be the responsibility of the applicant State or its agent. However, the research uses and management program must be in conformance with these guidelines and regulations, and others implemented by the provisions of individual grants. It is suggested that prior to the grant award, representatives of the proposed sanctuary management team and the Office of Coastal Zone Management meet to discuss management policy and standards. It is anticipated that the grant provisions will vary with individual circumstances and will be mutually agreed to by the applicant and

the granting agency. As a minimum, the grant document for each sanctuary shall:

- (a) Define the intended research purposes of the estuarine sanctuary.
- (b) Define permitted, compatible, restricted and prohibited uses of the sanctuary.
- (c) Include a provision for monitoring the uses of the sanctuary, to ensure compliance with the intended uses.
- (d) Ensure ready access to land use of the sanctuary by scientists, students and the general public as desirable and permissible for coordinated research and education uses, as well as for other compatible purposes.
- (e) Ensure public availability and reasonable distribution of research results for timely use in the development of coastal zone management programs.
- (f) Provide a basis for annual review of the status of the sanctuary, its value to the coastal zone program.
- (g) Specify how the integrity of the system which the sanctuary represents will be maintained.
- (h) Provide adequate authority and intent to enforce management policy and use restrictions.

§ 921.31 Changes in the sanctuary boundary, management policy or research program.

- (a) The approved sanctuary boundaries; management policy, including permissible and prohibited uses; and re-

search program may only be changed after public notice and the opportunity of public review and participation such as outlined in § 921.21.

(b) Individuals or organizations which are concerned about possible improper use or restriction of use of estuarine sanctuaries may petition the State management agency and the Office of Coastal Zone Management directly for review of the management program.

§ 921.32 Program review.

It is anticipated that reports will be required from the applicant State on a regular basis, no more frequently than annually, on the status of each estuarine sanctuary. The estuarine sanctuary program will be regularly reviewed to ensure that the objectives of the program are being met and that the program itself is scientifically sound. The key to the success of the estuarine sanctuaries program is to assure that the results of the studies and research conducted in these sanctuaries are available in a timely fashion so that the States can develop and administer land and water use programs for the coastal zone. Accordingly, all information and reports, including annual reports, relating to estuarine sanctuaries shall be part of the public record and available at all times for inspection by the public.

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